

Testimony  
On Senate Bill 1549  
By  
Stephen Prisby, Executive Director  
Oregon Board of Dentistry  
Before the  
Senate Committee on Health Care  
Tuesday, February 4, 2020

On behalf of the Oregon Board of Dentistry (OBD), I want to thank you for the opportunity to provide informational testimony regarding Senate Bill 1549.

**Senate Bill 1549**

Directs Oregon Board of Dentistry (OBD) to issue dental therapist license to qualified applicant. Prohibits unlicensed use of title “dental therapist” and practice of dental therapy. Provides exceptions to prohibition. Adds dental therapist member to board.

**OBD Staff have reviewed SB 1549 as presented and offer feedback for you on this piece of proposed legislation. The next regularly scheduled OBD Board Meeting is not until February 21, 2020, so our Board Members did not have time to discuss SB 1549.**

**Because this would create a new Licensee; we feel a dedicated Oregon Revised Statute (ORS) Chapter should be designated for it. Currently in the ORS, Dentists have Chapter 679 and Dental Hygienists have Chapter 680. Currently ORS 681 is not available.**

- SECTION 3. (1) The Oregon Board of Dentistry shall issue a license to practice dental therapy to an applicant who:
- (3) A limited license issued under this section is valid for 18 months from the date of issuance and may not be renewed.

**The Board would have a difficult time tracking expiration dates on these limited licenses. We currently have our dentists and dental hygienists on a two-year renewal cycle. Dental license renewals are between mid-January and March 31, and dental hygienist license renewals are between mid-July and September 30. Approximately one half of each Licensee type renew every calendar year. We license approximately 3800 dentists and 4400 dental hygienists. We would prefer to keep any new Licensee on a two-year cycle and be uniform with all Licensees.**

**Section 3 of the legislation does not require the applicant to pay an application fee (as we require dentists and dental hygienists) nor does it require the applicant furnish evidence satisfactory to the Board of any background information, i.e., convictions, arrests recorded or police records. We conduct background checks on all applicants currently.**

**Section 3 does not require that the applicant who has been in practice in another state or states submit an affidavit that the applicant has engaged in the legal practice of dental therapy. This section also doesn't have the provision to refuse to issue or renew a license for either convictions or being disciplined in another state, or other disqualifying reasons under the current OBD statutes and rules.**

**Section 3 (d) - who determines the supervision level for the 400 hours of clinical practice?**

- SECTION 4. (1)(b) Has completed at least 560 hours of practice in the provision of dental care described in paragraph (a) of this subsection in the two years prior to the date of application.

**Why 560 hours (not defined as clinical) has been chosen and not 400 hours of clinical practice under supervision of a dentist as described in section 3? The hours are not defined as clinical hours and would be hard for the OBD to verify for licensure; limited licenses would have lesser standards for clinical practice hours.**

- SECTION 4. (1) The Oregon Board of Dentistry shall issue a limited license to practice dental therapy to an applicant who: (a)(A) Holds a valid authorization to practice dental therapy from another state or Canadian province, the federal government or tribal authority; or

**What does it mean by “valid authorization” they don’t have to be licensed in another state or Canadian province?**

**We recommend language below in section 4 to avoid confusion or ambiguity for when the OBD would be able to grant dental therapy licenses for people moving in from other states or jurisdictions:**

- a) Holds a current authorization to provide dental therapy issued by another state and the Board of Dentistry determines that the other state’s authorization requirements are substantially similar to those of the Board of Dentistry;**
- (b) Provides to the Board of Dentistry, in a manner determined by the Board of Dentistry, sufficient proof that the person is in good standing with the issuing out-of-state professional licensing board; and**
- (c) Has demonstrated competency, as determined by the Board of Dentistry by rule, over the dental therapy regulated by the Board of Dentistry**

- A person to whom a limited license is issued under this section may provide only the care within the scope of practice of dental therapy that was allowed by the person’s authorization described in subsection (1)(a) of this section.

**This might compromise the Board’s ability to protect the public and assure minimum standards are in place for these providers. The OBD is aware that other states and jurisdictions are pursuing very different models of dental therapy.**

**Arizona, Connecticut, Maine, Michigan, Minnesota, Nevada, New Mexico, and Vermont, as well as tribal lands in Alaska, Idaho, Montana, Oregon and Washington, have all enacted and approved some version of a dental therapist practitioner. We believe they all have different education requirements and scope of practice.**

**So this would direct our Board to issue a license without knowing what type of training or education the person has received. Currently the OBD does not do this for any dentist or dental hygienist. The OBD would be challenged to regulate dental therapists to their scope of practice since there are already many different types of dental therapists practicing now, much less the future ones that are coming as well.**

**The OBD would also be challenged to investigate complaints regarding dental therapists. The investigator would have to track down the education and training received, to try and correlate that to their scope of practice. The OBD Investigator would have to review and research this, before a report is prepared for the OBD Board Members. The OBD Board Members would need all the critical information to decide whether to discipline the dental therapist or not, as well as the supervising dentist.**

**This legislation does not address the dental therapists past discipline history, and whether they are subject to criminal background checks prior to licensing. At no point are dental therapist (limited or regular) required to take a clinical examination, to prove competency. Section 5 only requires that they take a written dental therapy examination, it doesn't even require that they pass it. Though, new statute would require the OBD to establish rules if the applicant fails the examination.**

- SECTION 4. (1)(b) Has completed at least 560 hours of practice in the provision of dental care described in paragraph (a) of this subsection in the two years prior to the date of application.

**The OBD is curious why 560 hours (not defined as clinical) and not 400 hours of clinical practice under supervision of a dentist as described in section 3? The hours are not defined as clinical hours and would be hard to verify for licensure; limited licenses could have lesser standards for clinical practice hours.**

- SECTION 4. (4)(b) A person described in this subsection is exempt from the requirements of section 3 (1)(c) and (d) of this 2020 Act.

**A Limited licensure could license dental therapists with less clinical practice hours/less stringent requirements than regular pathway. Why are the standards different?**

**Under Section 4, OBD would be approving exams;**

**This can create issues of liability for the Board (having to hire psychometricians for example) to verify the exams are calibrated and can withstand legal challenge. The OBD does not have the expertise or training to do this. This could create a large resource issue for the OBD. Regional and national testing agencies are already approved by the OBD for clinical dental exam licensure and clinical dental hygiene licensure. They have the experience and expertise in this area. Our Board and most throughout the United States rely on them to conduct the clinical licensure examinations.**

- Section 6. (1)(d) The practice of dental therapy under the direct or general supervision of a dentists that is necessary to meet the clinical experience requirements described in section 3 of this 2020 Act.

**Who determines the supervision level when the applicant completes the clinical practice hours needed for licensure? What if a supervising dentist determines that within those hours the dental therapist isn't performing up to the standard of care, do those hours still count towards the completion of clinical practice hours?**

- SECTION 7. (1) A dental therapist may practice dental therapy only under the supervision of a dentist and pursuant to a practice plan with the dentist. The practice plan must include at least the following information:

**Dental therapists would not be held to the same standards that dentists/dental hygienists are held to while performing the same procedures. Section 7 reads that the supervising dentist would outline the standards expected of the dental therapist in the practice plan and that they would not have to follow the ones in the DPA for record maintenance, medical emergency mgmt., etc. This will create many enforcement/regulation issues.**

- SECTION 7. (1)(b) Circumstances under which the prior knowledge and consent of the dentist is required to allow the dental therapist to provide a certain service or perform a certain procedure.

**This could be an enforcement issue that the Board deals with. Could this be as simple as the dental therapist telling the supervising doctor that they were trained to do something and they were not? Does the dentist have to outline each of the procedures they authorize in the practice plan? Supervising doctors could be disciplined for allowing a dental therapist to do something they were not trained to do.**

- SECTION 7. (4), (5)

**This would be difficult for the Board to investigate. Do all of the dentists need to have an individual practice plan with the specific dental therapists? If one of the doctors authorizes a procedure and the other doesn't, how does the Board know which doctor is supervising that specific procedure? Especially if under general supervision. Could be verbal authorization. This would also add strain to OBD staff to track practice plans (assuming we would do it the same way we do collaborative agreements).**

- SECTION 8 (1)(c) Any of the following services for which the dental therapist has received sufficient training.

**Who determines whether the dental therapist received sufficient training? How would the supervising doctor verify their training with all of the different programs, etc...? For example, it is problematic for a supervising doctor to allow a dental therapist to administer nitrous oxide without them first obtaining a permit by the Board like all other licensees. All anesthesia permit holders in Oregon also have special continuing education requirements to maintain their permit.**

- (H) Nonsurgical extractions of periodontally diseased permanent teeth that are un erupted, not impacted or fractured and do not need to be sectioned for removal;

**Is this correct, "unerupted"? Or should the language read "erupted"? This does not seem logical.**

- SECTION 8 (2)(a) A dental therapist may supervise a dental assistant and an expanded function dental assistant, as defined by the board by rule, if the dental therapist is authorized to perform the services provided by the dental assistant or expanded function dental assistant.

**What about other types of dental assistants? We will have to amend all of the dental assisting rules to allow dental therapists to supervise them to perform duties that the therapist is authorized to perform (which is vague and differs).**

**This would also require the OBD to create another type of dental assistant certification to perform duties potentially not allowed, or only allowed with a dental therapist.**

- Section 8 (2)(a) A dental therapist may supervise a dental assistant and an expanded functions dental assistant, as defined by the board by rule...

**So based on this proposed statute it appears that it would prohibit a dental therapist from supervising a dental hygienist?**

- Section 13. ORS 679.140 (1) The Oregon Board of Dentistry may discipline as provided in this section any person licensed to practice dentistry in this state of any of the following: ...

**So throughout this section sometimes it states practicing dentistry, other sections within they've added dental therapy. We do not interpret this as the same thing. If not, it may need to be more clearly defined. Would it be assumed only the section that lists dental therapy would be the only sections that apply to them for possible Board action? The dental hygiene statutes specifically state (ORS 680.100) that a dental hygienist may be disciplined for any of the causes for which a dentist may be disciplined under ORS 679.140, and may impose any of the methods of discipline.**

- SECTIONS 14 and 15.

Section 14 One must be an Oregon active dental therapist; and

Section 15 (One] Two must be [an] Oregon active dental [therapist] therapists;

**This is recommending a dental therapist join the Board in 2020, when there might be a handful of dental therapists who could meet licensure requirements. What if none want to serve on the Board? Is the Board out of compliance if there are no dental therapist on the Board as required by statute? By 2025 the bill would require two dental therapists on the Board. Some context: currently there are two dental hygienist positions on our Board and there are over 4400 licensed Oregon dental hygienists. The OBD budgets approximately \$9600 per biennium for each board member, for per diems and travel reimbursement.**

- Adds one dental therapist member to board. (September 1, 2020)
- Adds another dental therapist member to board. (January 1, 2025)

**Dental therapists would be eligible to enter the Health Professionals' Services Program (HPSP).**

**Current Licensees also have Continuing Education requirements which the OBD believes should be applicable to dental therapists as well.**

**Every Dentist shall advise the board within 30 days of any change of address. ORS 679.120(4)**

**Every Dental Hygienist shall advise the board within 30 days of any change of address. ORS 680.075(4)**

**Other Statutes may need to be updated:**

**30.278 Reporting notice of claim of professional negligence to licensing board** - (dentists and dental hygienists)

**31.740 When award of punitive damages against health practitioner prohibited** - (dentists and dental hygienists)

**109.640 Right to medical or dental treatment without parenteral consent** – (dentists only, no dental hygienists)

**146.184 Medical practitioners to provide information about missing persons.** - (dentists only, no dental hygienists)

**192.556 Definitions for ORS 192.553 to 192.581** - (dentists and dental hygienists)

**418.307 Medical or dental treatment of children without consent; conditions; immunity of treating personnel** – (list dentist only, no dental hygienists)

**419.005 Reporting of Child Abuse** - (list dentist only, no dental hygienists)

**676.340 Limitations on liability of health practitioners providing health care services without compensation; requirements; exceptions; attorney fees; applicability** – (dentists and dental hygienists)

**676.345 Registration program for health care professionals claiming liability limitation; program requirements** - (dentists and dental hygienists)

**742.400 Duty to report claim of professional negligence to licensing board; contents of report; public disclosure and posting of reports** - (dentists and dental hygienists)

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**The OBD Staff would have preferred to have had more time to review this proposed legislation. We were under the impression that Dental Pilot Project #100 was going to be completed at some point in 2021 and then the results and outcomes would be reviewed.**

**We also did not have an opportunity to meet with the Board Members and discuss this proposed legislation in one of our public regularly scheduled board meetings.**

**We believe there will be substantial rulemaking impacting many divisions in the Dental Practice Act. It appears rule development or changes will need to focus on:**

- **Rules regarding Dental Therapist Education Requirements**
- **Rules regarding Dental Therapist Licensure Requirements**
- **Rules regarding Dental Therapist Scope of Practice**
- **Rules regarding Dental Therapist Continuing Education Requirements**
- **Rules regarding Dental Therapist Prohibitions**
- **Rules regarding Dental Therapist Supervision**
- **Rules regarding Dental Therapist Practice Plan**
- **Rules regarding Dental Therapists Prescribing Practices**

- Rules regarding Nitrous Oxide Permits for Dental Therapists
- Rules regarding Dentist Supervision of Dental Therapists
- Rules regarding Dental Therapist Supervision of Dental Assistants
- Rules regarding Dental Therapist and impact on Dental Hygiene Rules
- Rules regarding Dental Therapist Advertising and Title Usage

We would need to convene the group of people defined in Section 11 to adopt new rules. We would also need to convene OBD standing committees to promulgate rule changes to update the Dental Practice Act. We estimate that convening one OBD committee meeting, costs approximately \$2100. This estimate includes staff time, attorney time, OBD board member per diems, travel reimbursement, etc...

We would have to create forms and update our website as well. This will be time-consuming and take a lot of work. At some point we would need additional administrative support and resources to issue licenses once rules and systems are in place.

Section 3 “The OBD shall issue a license to practice dental therapy to an applicant...” “Demonstrates clinical competency to practice dental therapy through the completion of a dental therapy education program that is approved by the board by rule...” This would allow the OBD to approve dental therapy competency-based programs that meet certain criteria. This and other areas of the bill would allow the OBD to act very much like an accreditation organization like CODA (Commission on Dental Accreditation).

This would require the OBD to invest time and resources or hire someone with the requisite skills and knowledge in this area. The OBD is also directed under Section 4 to review criteria for licensure based on a dental therapist practice in another jurisdiction “equivalent scope of practice to that of a dental therapist, as determined by the board by rule.” This would be new for us and require research, training and time- that will be added on to our current workload.

Also at some point, the OBD would receive complaints regarding these Licensees, and investigations would be conducted at that point in time. Those investigations will be more complex and difficult because the dental therapists would have diverse education, training and experience. As pointed out earlier in this document: the investigator would have to learn what their scope of practice was, and gather appropriate information for the investigation.

We believe that this bill as proposed will have a fiscal impact on our agency.

We look forward to working with you and the dental community to continue the mission of the OBD concerning the protection of the public while equitably regulating dental professionals in Oregon.