

Information Summary and Recommendations

Dental Care Scope of Practice Sunrise Review

January 2004



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EXECUTIVE SUMMARY

Background

House Bill (draft) H-3273.2 was referred to the Department of Health for a sunrise review in the summer of 2003. The bill would amend the regulation of dental hygienists, including expanding unsupervised practice; establish regulation of dental assistants at the registration and certification levels; create a dental hygiene committee under the Dental Care Quality Assurance Commission for purposes of regulating hygienists; and make amendments to various practice acts to place hygienists, assistants, dentists and denturists under one practice act chapter of state statute.

The applicant for this proposal is Representative Eileen Cody.

CURRENT REGULATION

Dentists are regulated at the level of licensure by the Dental Care Quality Assurance Commission. Dental Hygienists are regulated at the level of licensure and must be supervised by a dentist except in limited settings. Regulation is performed primarily by the department, except for the examination, which is handled by an exam committee. Dental Assistants are not defined in statute and are referred to in department rules as “unlicensed persons.” A dentist is responsible for the actions of the assistant. Denturists became regulated as a result of the Initiative process and are also licensed. Denturists are regulated by their own board.

To be licensed in this state, dental hygienists must take and pass the “restorative” examination. Washington is the only state that requires this knowledge; applicants from other states must attend a course at their own expense (including housing, etc.) for three weeks and then pass the test. An 18 month “temporary license” is available that allows out of state applicants to work as hygienists while attaining this knowledge and taking the exam. If they do not successfully do so, they lose the opportunity to work after 18 months.

RECOMMENDATIONS TO THE LEGISLATURE (DETAILED RECOMMENDATIONS AND RATIONALE BEGIN ON PAGE 6)

1. Dental assistants should be required to register. While the department supports the concept of “expanded practice certified dental assistants” there was insufficient information upon which a firm recommendation could be made. If registration is enacted by the legislature, the Department would undertake a further study to develop a scope of practice for expanded practice certified dental assistants for the legislature to consider. Sufficient staffing and allotment authority should be allowed to properly implement this recommendation.
2. Dental assistants should not be allowed to perform supragingival or subgingival scaling.
3. Dental hygienists should be allowed to work unsupervised in any setting, if they have two years of practical clinical experience, supervised by a dentist, in the previous 5 years. Their

scope of practice should still include a prohibition on the unsupervised administration of nitrous oxide or legend drugs.

4. Denturists, dentists and dental hygienists should supervise registered Dental Assistants. Supervision requirements should be comparable under each professional. Denturists, dentists and hygienists may only allow assistants to perform tasks for which they are properly trained, and may not allow an assistant to perform functions outside of the supervisor's scope of practice.

5. A "limited" dental hygienists license should be created that will allow out of state applicants to obtain a Washington license without taking additional training and an examination in restorative services.

6. The Dental Hygiene Examining committee should be replaced with a Dental Hygiene Board appointed by the Secretary. The new board should be responsible for examination requirements, licensing standards and scope of practice issues, and consult with the Dental Commission when appropriate. The Secretary of Health should be the disciplining and licensing authority for dental hygienists. The Board should have 6 members; 5 hygienists and 1 public member. Sufficient staffing and allotment authority should be allowed to properly implement this recommendation.

7. The overall structure of the dental professions' statutes does not need to be consolidated. Dental assistant regulation, if passed, should be incorporated as 18.31 RCW.

8. While not part of the original applicant proposal, the review process identified additional training requirements for dentists who supervise nurses (most notably certified registered nurse anesthetists) who provide anesthesia services in dental offices. The Department recommends that the portion of the WAC requiring this additional training be repealed.

FINDINGS

1. Washington State is facing a shortage of dental hygienists and dentists. Currently, 35 of 39 counties have some area or population designated as a “Dental Health Professional Shortage Area.” (ww4.doh.wa.gov/gis/standard_maps.htm) The ability to recruit and retain dentists in rural areas has become increasingly difficult. Many dentists now ready to retire are unable to find someone to take over their practice. Newly trained graduates from the University of Washington Dental Residency Program totals only 51 per year. The problem is particularly acute in critical shortage areas, and will likely grow worse as a large percentage of dentists approach retirement age. Because a dentist must supervise the work of a hygienist (in most cases) there is a direct impact on hygienists from shortages of dentists.
2. While the proposal seeks to increase the supply of dental care providers, it is not necessary under the sunrise criteria for the proponent to prove this. The criteria only require that the new regulatory structure assure the public of initial and continuing competency, and that the professionals are trained to meet the standards established. Expanding access could be considered a “benefit to the public” under the criteria.
3. As stated in the American Dental Association’s Health Policy Resources Center report on Dental Workforce issues, issued in 2001:
“Many factors affect the required number of dentists. ...The availability of auxiliary dental personnel is critical. Unless trends change, there could be increasing difficulty in attracting students to dental assisting and dental laboratory technology programs. Retention issues related to dental hygiene could continue unless some action is taken.”
4. Dental hygienists are regulated by the Department for practice and disciplinary matters. The Dental Hygiene Examining Committee, with 4 members, has independent authority for the licensing examination. The Dental Quality Assurance Commission (DQAC) regulates dentists for both licensing and disciplinary activities. The Commission has 14 members. The Board of Denturists regulates denturists. It has 7 members. There are 5378 dentists, 4431 dental hygienists, and 123 denturists with active credentials. The Washington State Dental Assistant Association estimates there are 4000 dental assistants in Washington state. The Dental Assistant National Board (DANB), which provides a private certification for assistants, reports 1040 assistants in Washington have attained their credential.
5. Several states allow some degree of unsupervised dental hygiene practice. One state, Colorado, has allowed completely unsupervised hygiene practice for about 10 years. Representatives from the state of Colorado reported to the Department that this program is working well, with little or no disciplinary action against the hygienists. Thirty-one hygienists (out of 3,493) practice in settings by themselves. A 1998 study of 6 hygienists in independent practice concluded that “the services provided were consistent with allowable services” and that compliance “was verified” by office visits and patient records. Unsupervised practice was found to “not exhibit any undue risk to the health and safety of the public.” The University of California School of Dentistry studied a pilot project in California for unsupervised practice. The 1997 study concluded that this practice “did not increase the risk to the health and safety of the public.”

6. In Washington, dental hygiene unsupervised practice is limited to a variety of health care institutions, such as nursing homes. With the passage of SSB 6020 in 2001, unsupervised dental hygienists are allowed to apply sealants and fluoride varnish in school-based programs in coordination with local health jurisdictions or local oral health coalitions.
7. Washington's scope of practice for dental hygienists, which includes placing of restorations, is a unique scope of practice among the states. (A few states allow placing of restoratives under "advanced practice.") Out of state applicants, therefore, must take a course and pass an examination in this function before being licensed by Washington. An 18-month period is allowed for a temporary license, allowing the applicant to meet the additional requirements. Only about 30% of hygienists use the restorative function as part of their actual practice. The Department has identified this is an unnecessary barrier to licensing and is proposing legislation to provide for a "limited license" for those hygienists who do not want to practice restorative and therefore would not be required to take the education or exam.
8. It is possible that unsupervised practice of hygienists will allow this type of provider to work more closely with local health jurisdictions in the delivery of oral health care under programs already authorized by the legislature.
9. The American Dental Association requirements for accreditation of dental hygiene schools contain, among other things, the inclusion of "dental hygiene diagnosis" as a competency required of graduates.
10. Dental assistants are currently not directly regulated by the State of Washington. Assistants are regulated through the close supervision of the licensed dentist. Dentists may delegate certain functions to an assistant if the dentist is sure they are properly trained. Some functions may not be delegated. Some other states regulate assistants at registered, certified or licensed levels.
11. The Dental Assisting National Board (DANB), a private certification organization, is currently reviewing the expanded functions of dental assistants in other states. This survey is not expected to be completed until sometime in 2004.
12. The typical higher-education dental assistant program includes 10-12 months of clinical training, including radiology, CPR and delivery of care coursework.
13. In 1994, the Department conducted a sunrise review of a proposal to regulate dental assistants and to allow them to perform "expanded functions." The proposal also called for unsupervised practice of dental hygienists, and included proposed changes to the structure of the regulatory entities involved. At that time, the Department recommended that assistants be allowed, under certain circumstances, to perform expanded functions, although it did not endorse a registration or certification program. Recommendations included allowing unsupervised dental hygiene practice, regardless of settings, after receiving an endorsement, showing 2 years of experience under supervision. Composition of the Dental Quality Assurance Commission was recommended as 1 dental assistant, 3 dental hygienists, 3 public members and 11 dentists; the dental hygiene examining committee would have been abolished. There were other related technical and administrative changes.
14. Several things have changed since the previous Sunrise Review (see #13 above). For example, the potential for shortages of several types of providers has increased. Technology

developments and scientific advances in dental services have made the dental office more complex. The Department has instituted a criminal background check of all credential category applicants, giving an extra measure of public protection to any level of regulation (including registration). The science behind oral health has evolved, and there is now a better understanding of the relationship between oral and general physical health.

15. In 2002, the state of Colorado conducted a sunrise review of a proposal to provide “title protection” to “expanded functions dental assistants.” Those assistants with advanced skills could be certified. This is similar to the certification part of the applicant’s proposal. The review concluded that the proposal did not meet the sunrise criteria (which are identical to Washington’s). This was based on lack of evidence indicating harm or potential harm exists from the unregulated practice of expanded functions dental assistants, and that private certification through DANB is a cost-effective alternative to state regulation.
16. The State of Texas Sunset Advisory Committee issued a report in February 2002 that concluded, among other things, that “regulatory controls over dental assistants are not adequate given their patient care responsibilities.” This conclusion was based, in part, on the finding that assistants may perform procedures that put patients at risk, and that some dentists and assistants are unclear on what duties an assistant is allowed to perform.
17. In May 2000, the Surgeon General of the United States issued a report on Oral Health. Among the findings relevant to this report are those relating oral health to general health. The findings include:
 - Many systemic diseases and conditions have oral manifestations. These manifestations may be the initial sign of clinical disease and as such serve to inform clinicians and individuals of the need for further assessment.
 - The oral cavity is a portal of entry as well as the site of disease for microbial infections that affect general health status.
 - Animal and population-based studies have demonstrated an association between periodontal diseases and diabetes, cardiovascular disease, stroke, and adverse pregnancy outcomes.
18. Department of Health disciplinary complaints against dentists reveal that from 1999 through October 2003, there were only 16 cases of “aiding and abetting unlicensed practice.” Not all of these are necessarily attributable to problems with dental assistants and only 3 resulted in disciplinary action.
19. Department of Health disciplinary complaints against dental hygienists reveal that from October 1998 through October 2003 there were only 7 standard of care concerns. Not all of these are necessarily attributable to problems with supervision requirements and only 2 resulted in disciplinary action.

DETAILED RECOMMENDATIONS TO THE LEGISLATURE

1. Dental assistants should be required to register. While the department supports the concept of “expanded practice certified dental assistants” there was insufficient information upon which a firm recommendation could be made. If registration is enacted by the legislature, the Department would undertake a further study to develop a scope of practice for expanded practice certified dental assistants for the legislature to consider. Sufficient staffing and allotment authority should be allowed to properly implement this recommendation.

Rationale:

The complexity of dental care has increased significantly in the last 10 years. At the same time, the scientific knowledge has evolved, including a better understanding of the relationship between oral and general physical health. This requires the regulatory system to require more accountability, technical knowledge and competency from oral health providers. Establishing a “base” of registration for dental assistants is an important part of the regulatory scheme. First, the criminal background check, conducted on all credential applicants, adds a layer of protection. Second, registration aids the dentist in the hiring practice by preventing assistants who have been disciplined from working in another office.

In addition, potential shortages of dentists and hygienists compel consideration of methods to increase safe, appropriate use of auxiliary personnel such as dental assistants. Registration puts the assistants under the Uniform Disciplinary Act. This will help prevent an assistant who should not be practicing from moving from one dental office to another. It also reflects the reality that some assistants have informal training (primarily on the job) and there would be no easy way to evaluate that training for purposes of regulating at a higher level.

A certification option allows those who seek to perform expanded functions to have their advanced training recognized. This assures the public of their initial competency and allows the dentist to more confidently delegate tasks to the assistants. However, given the time needed to compile a list of what other states are allowing, and what the Dental Assisting National Board finds in its survey, there is insufficient basis to formulate a certification program in statute at this time.

2. Dental assistants should not be allowed to perform supragingival or subgingival scaling.

Rationale:

Because data show that approximately 75% of patients have both supra- and subgingival calculus, most patients being treated by assistants performing supragingival scaling would have to also see a hygienist. Separating out the scaling function by the area to be scaled is an inefficient use of office personnel, and is inconvenient, at best, for the patient.

There is evidence that potential for harm exists from scaling below the gingiva, thereby making this approach unsafe for the patient if not performed by a fully trained practitioner.

The Department concurs with the Washington State Dental Assistants Association conclusion that there is “no need to impinge on an area that should remain the domain of a trained hygienist.”

3. Dental hygienists should be allowed to work unsupervised in any setting, if they have two years of practical clinical experience, supervised by a dentist, in the previous 5 years. Their scope of practice should still include a prohibition on the unsupervised administration of nitrous oxide or legend drugs. No other changes to the scope of practice of dental hygienists are needed at this time.

Rationale:

Over the years, the Department has maintained that hygienists are capable of practicing independently. Hygienists are important preventive care providers, and a key to the long-term improvement in oral health status in the state.

The history with the limited settings in which hygienists do practice unsupervised has demonstrated that the training they receive, and the requirement for a two-year minimum of previous supervised experience, is sufficient for safe practice. The experience of Colorado’s unsupervised practice, and two scientific studies, confirms this as well.

The bachelor’s degree requirement for allowing unsupervised practice, as contained in the proposal, has not been justified. The additional education in the final two years of the degree programs generally does not relate to hygiene care but to more “elective” courses. Further, the current standard of two years of experience has proven to be adequate; licensing standards are to be set at the minimum level required for safe care. Obtaining a bachelor’s degree may be optimal but does not need to be a licensing standard.

The proposed changes to the hygienist’s scope of practice, which were characterized in testimony as “updates” seem to be significant changes. The Department could not find justification or need for these changes, nor was sufficient information provided to assure that training opportunities were adequate to prepare hygienists for these changes.

While a result of this change may only be a modest increase in availability of dental hygiene preventative services in underserved areas, removing any regulatory barrier to increase access is desired when patient harm is not compromised. Other barriers may also exist, such as reimbursement policies and rates.

4. Denturists, dentists and dental hygienists should supervise registered Dental Assistants. Supervision requirements should be comparable under each professional. Denturists, dentists and hygienists may only allow assistants to perform tasks for which they are properly trained, and may not allow an assistant to perform functions outside of the supervisor’s scope of practice.

Rationale:

Dental hygienists who may practice unsupervised could benefit from the services of a registered assistant. This would benefit the patient through a more smoothly functioning office. If unsupervised hygienist practice is not enacted, patients could still benefit from registered assistants being supervised by hygienists.

Denturists could also benefit from the services of a registered assistant, and the public would benefit from knowing that the assistants are regulated by the state.

5. A “limited” dental hygienists license should be created that will allow out of state applicants to obtain a Washington license without taking additional training and an examination in restorative services.

Rationale:

The shortage of health care workers led the Department of Health (DOH) to examine its professional licensing laws for barriers to licensure. Unnecessary barriers were identified and legislative changes developed to correct them. In 2004, the department will request legislation to establish a “limited license” for hygienists which would allow practice without restorative services. DOH has continued to identify changes to licensure requirements that will eliminate unnecessary provisions and streamline processes.

The creation of a limited license will allow hygienists who want to exclude restorations from their scope of practice to more easily become licensed in Washington. This would give hygienists a choice of licenses since only approximately 30% of the 4296 licensees actually place restorations. Washington State is the only state that allows hygienists to place restorations. Currently, hygienists moving to Washington have 18 months to complete a class on restoration and pass an exam or they cannot become licensed. The limited license would allow hygienists to become licensed without the additional expense of the class, travel time, and the exam.

The Washington scope of practice is a barrier to out of state hygienists working in this state. The proposed extension of the temporary license allows the hygienist additional time to train and test for the license. The limited license is a better option, as it would eliminate the unnecessary time and expense to hygienists for training and testing they will not utilize.

The limited license will reduce barriers to licensure and increase the numbers of providers.

6. The Dental Hygiene Examining committee should be replaced with a Dental Hygiene Board appointed by the Secretary. The new board should be responsible for examination requirements, licensing standards and scope of practice issues, and should consult with the Dental Commission when appropriate. The Secretary of Health should be the disciplining and licensing authority for dental hygienists. The Board should have 6 members; 5 hygienists and 1 public member. Sufficient staffing and allotment authority should be allowed to properly implement this recommendation.

Rationale:

The current Dental Hygiene Examining Committee has full authority over the examination portion of the regulation of hygienists. It has also assumed a *de facto* advisory role to the department in scope of practice and licensing issues. The new Board will not have licensing or disciplinary authority but will have added responsibility in non-exam areas.

The use of a board with this kind of authority is consistent with other programs for professions involving unsupervised practice. The board structure proposed for dental hygiene is similar to that of the State Board of Massage and the Board of Denturists. It utilizes the expertise of the dental hygienists in matters of scope, standard of care, and testing, while preserving the efficiency of a more streamlined licensing and disciplinary process.

The applicant's proposed structure of a subcommittee under the Dental Commission appears inefficient, complicated and time-consuming. For example, if an applicant had something appear on the background check, staff would be required to get the committee to decide on what action, if any, to take in relation to the application; then the Commission would have to approve the decision. The professional expertise represented by the hygienists is better used in more technical matters.

The applicant's proposal will be more expensive than the current operation of the dental hygiene examining committee. The proposal would also require more meetings of the Committee on Dental Hygiene to accomplish all the duties assigned in the legislation. The increased membership will also contribute to increased costs. The increased workload on the Commission will increase costs for its operation.

7. The overall structure of the dental professions' statutes does not need to be consolidated. Dental assistant regulation, if passed, should be incorporated as 18.31 RCW.

Rationale:

The Department could not determine a significant difference in either leaving the statutes separated or consolidated into one. A consolidation would likely increase some short-term costs of regulating the profession – for changes to administrative rules, web pages, printed materials, etc. In addition, there may be some short-term confusion among the public having different sets of materials, citing different WAC numbers.

Under the sunrise criteria, it is not possible to make a strong recommendation either way on this part of the applicant's proposal. Therefore, the Department has chosen to recommend that it be considered an unnecessary change.

Currently, the statutes governing the oral health care professions are consolidated into a single lawbook for ease of use by the licensees.

8. While not part of the original applicant proposal, the review process identified additional training requirements for dentists who supervise nurses (most notably certified registered nurse anesthetists) who provide anesthesia services in dental offices. The Department recommends that the portion of the WAC requiring this additional training be repealed.

Rationale:

Requiring a dentist to be fully trained in anesthesia services in order to allow a CRNA to provide anesthesia services is inefficient and unnecessary. CRNAs are fully trained and can legally provide unsupervised services in other settings. This recommendation is also consistent with the Governor's recent decision regarding the ability of CRNAs to work unsupervised in the hospital setting.

There should not be any additional training for dentists when using the anesthesia services of a non-physician. Any anesthesia provider who can otherwise legally practice unsupervised should be allowed to provide services in a dental office.

INFORMATION SUMMARY

NOTE: This is not an attempt to quote or paraphrase every participant in the review, but rather to summarize the key points provided to the department in the process. All points were considered in developing the recommendations.

Applicant

(Full applicant report can be found in Appendix B)

The primary points of the proposal are that it:

- combines the regulation of all oral health care professionals under a single chapter;
- requires dental assistants to be either registered or certified;
- allows dental hygienists to obtain an endorsement to practice independent of dental supervision; and
- establishes a subcommittee on dental hygiene practices to regulate the practice of dental hygiene in coordination with the Dental Quality Assurance Commission.

One factor that limits the ability of dentists to see more patients is the availability of dental hygienists. Compared with the rest of the country, Washington faces a significant shortage of dental hygienists. A recent report estimated that, while Washington dental hygienist programs graduate almost 150 new professionals into the field each year, it will require that 360 new dental hygienists enter the practice every year for the next ten years to eliminate vacancies and keep up with population growth.

Dental assistants fill an important role in the dental office practice model. Washington ranks second in the nation for having the most dental assistants per dentist. Despite their significance, current statutory provisions generally fail to acknowledge the existence of dental assistants, much less regulate their practice. Furthermore, if the predicted scarcity of dentists and dental hygienists should materialize, then there will likely be an increased dependence on dental assistants. Having them recognized through registration and certification can protect the public by ensuring that they are not working beyond their scope of practice and modifying that scope of practice if their skills allow. Lastly, the current lack of oral health professionals is harming the public. An incremental regulatory scheme consisting of both registration and certification for dental assistants can create career ladders to attract people to the profession, retain them, and encourage them to continue their education so that they may provide more skills to the public.

The potential harm that dental hygienists present to patients is minimized by the training and on-the-job supervision that they receive. Even though this proposal removes the protection of supervision, it is believed that any potential harm that this poses can be offset by the fact that the dental hygienists who will practice independently must have received their training from a baccalaureate program. If there are other safeguards that are necessary to further protect the public from harm, the applicant welcomes any such suggestions. While there are no assurances that dental hygienists will opt to practice independently in areas experiencing shortages of dentists, failure to adopt this alternative practice will guarantee that shortages will continue. Allowing dental hygienists to establish independent practices would at least give these people some access to oral health care. In addition, an independent practice model could attract more people to the profession and increase the overall supply of providers.

Other points made by participants

A number of phone calls were received from dental assistants who strongly supported the registration and certification of the profession as outlined in the proposal. Most also urged a “grandfathering” provision longer than one year.

Educators in dental hygiene and assisting programs provided information about the content and value of their respective programs. Of particular relevance is the description of the baccalaureate program vs. the associate degree program in hygiene, described as providing “the higher level of critical thinking skills necessary to be truly autonomous.”

A dental hygienist provided ideas concerning the development of a new model of dental care delivery. This would be analogous to the physician-physician assistant model; in other words, an intermediate level practitioner that could help fill the gaps in availability of dentists. “We must continue to expand the ability of our oral healthcare workforce in ways that will truly improve access to all populations, and keep up with the actual demands and needs for services.”

Washington State Dental Association

The proposals to expand unsupervised practice by dental hygienists and for the autonomous hygienist regulatory committee do not meet the tests set by the legislature for patient harm, public benefit or regulatory costs. No statements or testimony were presented which could lead to a conclusion that this proposal meets its own stated purpose of solving the current and pending shortage of dentists or hygienists. Workforce (in particular dentist) shortages and lack of public funding for oral healthcare programs are the main reasons there are access to care issues. This proposal does not help on that score.

WSDA opposes the registration of all dental assistants as unnecessary with little value to the public and increased costs. Adding an additional layer to regulation is not required to protect the public.

There are five major changes the proposal makes and none meets the 3 sunrise criteria (public protection, public benefit and cost effectiveness).

The changes to expand the scope of practice for dental hygienists will protect the public less by allowing hygienists to make diagnoses that they are not qualified to do.

The changes to allow “advanced practice” hygienists will allow them to treat patients without dental or medical supervision, which weakens protections for patients. Using the BA degree as the benchmark for allowing unsupervised practice is not relevant to scope of practice. This model is not cost-effective and there is no science to support it.

WSDA supports the proposal that removes restorative from the hygienist scope of practice and making it an endorsement.

Department of Health’s Oral Health Program

Many of the Local Health Jurisdictions in Washington (especially those with newly established oral health programs) do not currently employ dental health care providers as defined by this proposal. Rather, their current oral health programs emphasize health education, community awareness, and

development of local oral health infrastructure, and the staff members that operate those programs may be health educators or public health nurses. However, most of the LHJs seem to aspire to having a licensed hygienist or other dental professional either employed or on contract, as a matter of professional credibility and technical oversight for direct services. This proposal might assist the LHJs by creating a larger pool of possible personnel, and might also raise the salary expectations for “advanced practice” professionals who might work for LHJs. However, it seems unlikely that private “advanced practice” dental professionals will serve many of the low-income population without appropriate reimbursement.

Washington State Dental Assistants Association

The U.S. military model shows that expanded function dental assistants increase the ability to expand oral health care to underserved populations. Therefore, the regulatory proposal for assistants will help increase access. There is currently no state standard for dental assistants; it depends largely on the ability, time and teaching abilities of the supervising dentist. The regulatory proposal will help create a state standard for training and use of assistants.

WSDAA supports the two-tiered system for registration of all assistants and required education and testing for expanded function certified assistants. There are about 8000 dental assistants, about 1000 of whom have DANB certification; it is unknown how many of the others would qualify for certification. The expanded functions should be no less than those current in the rules.

Certification should be available to those current assistants who have training other than in a formal school setting. A “grandfather” provision should be allowed for those who can take and pass the examination. Any discussion of educational delivery methods must include dental assisting educators. If the need for expanded functions varies from office to office, as the WSDA indicated, then so does the quality of on-the-job training, and therefore there is no standard. Implementing a statewide educational and testing requirement would assure the public and the assistant of a measurable standard of knowledge.

Washington State Dental Hygienists Association

Advance Practice Dental Hygiene is the logical next step to allow dental hygienists, with a bachelor degree, to provide unsupervised care. Fifty percent of the population does not receive routine dental care. This crisis will continue to widen as the number of dentists declines. This proposal will allow us to move in a proactive direction to increase access to dental services.

The proposal also clarifies the recognition of dental hygiene diagnosis and treatment plan as it differs from a dental diagnosis and treatment plan.

Providing hygiene services without supervision has proven to be safe, convenient, and cost effective for clients, families and facilities. The proposed model is an acceptable compromise and is financially responsible.

The current committee/commission structure provides no appropriate body to address issues on scope of practice and interpretation of statute for hygiene. The proposed structure is self-regulation of the profession.

WSDHA supports the registration and certification of assistants and their representation on the Dental Commission. Hygienists should be allowed to supervise assistants. WSDHA does not support supragingival scaling by assistants; it is cosmetic and non-therapeutic. Supragingival calculus shows a risk for periodontal disease. This procedure is at the core of dental hygiene and should stay within dental hygiene.

Washington Association of Nurse Anesthetists

The association supports the expansion of dental hygiene as proposed and has no objection to hygienists administering local anesthetic under general supervision or nitrous oxide under close supervision.

The association does object to a hygienist delegating either function to a certified or registered dental assistant.

We also ask that the statute be changed regarding additional training requirements for dentists who supervise nurses (most notably certified registered nurse anesthetists) who provide anesthesia services in dental offices. CRNAs are authorized in law to practice unsupervised, and requiring a dentist to obtain training in anesthesia makes it impractical for nurses to be used and is unfair; this is not a requirement for a dentist using a physician to provide anesthesia in the dental office.

Appendix A
Applicant Report

Sunrise Review

Oral Health Professionals Omnibus Proposal

Representative Eileen Cody, Chair of the House of Representatives Health Care Committee, submits the attached proposed legislation for the Department of Health to review under the Sunrise Act provisions (chapter 18.120 RCW). The primary points of the proposal are that it:

- combines the regulation of all oral health care professionals under a single chapter;
- requires dental assistants to be either registered or certified;
- allows dental hygienists to obtain an endorsement to practice independent of dental supervision; and
- establishes a subcommittee on dental hygiene practices to regulate the practice of dental hygiene in coordination with the Dental Quality Assurance Commission.

Unlike most sunrise review applications, this proposal is not submitted to advocate a particular position to the Department of Health. The purpose of this application is to solicit the expertise of the Department of Health and interested health professions to provide commentary and feedback on the proposal as a suggested policy alternative for confronting the anticipated shortages of dental personnel. In addition to encouraging comments on the supply issue, the applicant is very interested in information as to the effect of pursuing such a policy with respect to protecting the public as patients. Suggestions are invited regarding how to (1) improve the proposed model to increase the supply of oral health providers and (2) better protect the public under this proposed model. It is the hope of the applicant that oral health professionals will share their perspectives for achieving quality dental care for Washingtonians long into the future.

The Problem

This proposal is put forth at a time when Washington, like much of the nation, faces critical shortages of personnel in numerous health professions. As several recent reports attest, these shortages apply to the dental professions as well.¹ While the shortages may be attributable to several factors, it is apparent that new models for the practices of the oral health professions will be necessary to face these challenges.²

Thirty to forty percent of dentists in Washington are over fifty-five years old.³ It has been estimated that within the next ten years approximately half of the dentists in Washington will retire.⁴ At the same time, the nationwide supply of new dentists is falling on a per-capita basis.⁵

¹ Washington State Health Care Personnel Shortage Task Force. *Washington State Health Care Personnel Shortage: Crisis or Opportunity?*. Olympia, Washington: Washington State Workforce Training and Education Coordinating Board, December 2002. 11.

² WWAMI Center for Health Workforce Studies. *Distribution of the Dental Workforce in Washington State: Patterns and Consequences*. Seattle, Washington: University of Washington, March 2001. 6, 30-31.

³ National Conference of State Legislatures. *The Health Care Workforce in Ten States: Education, Practice and Policy, Washington*. Washington, D.C.: National Conference of State Legislatures. Spring 2001.

⁴ Gary Hart, Ph.D.. *Findings from the 2001 Washington State Dental Association Survey of Dentists*. Seattle, Washington: Washington State Dental Association, 2001. 9.

While the problem is most pronounced in small rural towns, it also affects small metropolitan areas in the state.⁶

One factor that limits the ability of dentists to see more patients is the availability of dental hygienists. Compared with the rest of the country, Washington faces a significant shortage of dental hygienists.⁷ A recent report estimated that, while Washington dental hygienist programs graduate almost 150 new professionals into the field each year, it will require that 360 new dental hygienists enter the practice every year for the next ten years to eliminate vacancies and keep up with population growth.⁸ Furthermore, while dental hygienists tend to be evenly distributed throughout much of the state, rural towns of less than 10,000 people have an acute shortage of hygienists.⁹

The Proposal

This proposal is submitted to the Sunrise Review process as a policy alternative to help solve the current and pending shortage of dentists in Washington. The following is a discussion of the main sunrise issues.

Regulation of Dental Assistants

Current law establishes the extent to which “unlicensed persons” may function under the supervision of a licensed dentist.¹⁰ In the practice of dentistry, these “unlicensed persons” are known as dental assistants.

Harm or Endangerment of the Public from Unregulated Practice

Dental assistants fill an important role in the dental office practice model. Washington ranks second in the nation for having the most dental assistants per dentist.¹¹ Despite their significance, current statutory provisions generally fail to acknowledge the existence of dental assistants, much less regulate their practice. Only recently, with the passage of the community-based sealant bill, have these providers begun to be formally recognized as a valued class of oral health professionals.¹² Both the statutes and the administrative code list the services that they may perform under the title of “unlicensed persons” – a title that belies the importance of their services.

⁵ WWAMI Center for Health Workforce Studies. *Distribution of the Dental Workforce in Washington State: Patterns and Consequences*. Seattle, Washington: University of Washington, March 2001. 6.

⁶ *Id.* 16 (defining small metropolitan areas as urban areas with populations between 169,000 (Yakima) and 658,000 (Tacoma)).

⁷ Gary Hart, Ph.D.. *Findings from the 2001 Washington State Dental Association Survey of Dentists*. Seattle, Washington: Washington State Dental Association, 2001. 10.

⁸ *Id.* 11.

⁹ WWAMI Center for Health Workforce Studies. *Distribution of the Dental Workforce in Washington State: Patterns and Consequences*. Seattle, Washington: University of Washington, March 2001. 5.

¹⁰ WAC 246-817-520.

¹¹ Gary Hart, Ph.D.. *Findings from the 2001 Washington State Dental Association Survey of Dentists*. Seattle, Washington: Washington State Dental Association, 2001. 12 (citing statistics from the Bureau of Health Professions from 2000).

¹² Chapter 93, 2001 (SSB 6020).

This has created a situation where there is a scope of practice in search of a profession. That is to say, there is a set of activities that has been recognized as necessary to operate an efficient dental practice and requiring supervision to ensure patient safety, however, there is no identified class of professionals who performs these tasks. Formal regulation through registration and certification can protect the public by recognizing the professionals who conduct these activities. Requiring that dental assistants must, at a minimum, register with the Dental Quality Assurance Commission and maintain their credentials and professional standing is the first step toward ensuring accountability of the individual members of the profession. Furthermore, if the predicted scarcity of dentists and dental hygienists should materialize, then there will likely be an increased dependence on dental assistants. Having them recognized through registration and certification can protect the public by ensuring that they are not working beyond their scope of practice and modifying that scope of practice if their skills allow.

The current absence of regulation poses a potential for direct harm to the public by dental assistants. These professionals work closely with their supervising dentist and it is not uncommon for them to receive the majority of their training from only that one dentist. In such an unregulated environment, there is greater potential for dental assistants to be requested to act beyond their approved scope of practice or to be taught techniques that may not represent current best practices. Regulating these professionals can provide more opportunities for professional education which can bring greater awareness of the legal authority that these personnel possess and help standardize the practice of dental assisting. For example, current limitations on the role of unlicensed persons in assisting with the administration of nitrous oxide can be confusing to those who have not received training on the current scope of authority for unlicensed persons.¹³ Education may also be made available in sterilization procedures and infectious disease control.

Regulation will also encourage discussions of the proper scope of authority for these professionals so that the public can be protected from harm. For example, in Washington there are no limitations for an unlicensed person to place x-ray film and expose it. Other states have additional training requirements for these activities, however, no such mandate can be imposed on the “unlicensed persons” in Washington without the basic authority to regulate dental assistants.¹⁴ Regulation will allow for appropriate adjustments to their scope of practice and training requirements as well as other safeguards to maximize the use of these professionals and to protect the public.

Lastly, the current lack of oral health professionals is harming the public. An incremental regulatory scheme consisting of both registration and certification for dental assistants can create career ladders to attract people to the profession, retain them, and encourage them to continue their education so that they may provide more skills to the public. Because oral health care providers practice along a spectrum of care, these professionals are ideal candidate for facilitating career ladder opportunities. The 1994 Sunrise Review could not find that the “establishment of a ‘career track’ [...] is a benefit to the public within the sunrise criteria required to warrant licensure

¹³ WAC 246-817-520(29).

¹⁴ Dental Assisting National Board, Inc.. *Fact Sheet: General Information on State Expanded Functions and Radiography Requirements*. Chicago, Illinois: Dental Assisting National Board, June 2003 (citing approximately 35 states that have regulatory requirements that must be met prior to exposing radiographs).

or other regulation.”¹⁵ While a career track does not provide a direct and immediate benefit to the public, such as the factors listed in RCW 18.120.030, it should be a consideration given the personnel shortage that Washington is currently experiencing and will face in the near future. The proposal’s two-tiered approach to credentialing assures that there will not be any barriers to entering the dental assisting profession and it creates incentives for individuals to continue their education to advance their careers which will benefit the public through an increased supply of providers.

Public Need and Benefit from Assurances of Professional Ability

Currently, the only assurances that the public has that dental assistants are properly trained to perform their duties come from the individual dentist’s hiring practices and ability to teach. Under this proposal, certified dental assistants would be required to complete a course of study in dental assisting and pass an examination. They will also have to take regular continuing education courses. These requirements will begin to standardize the practice – even for those dental assistants who are only registered. While registration does not place any educational or testing requirements on the provider, having dental assistants recognized as professionals can open up opportunities for them to attend continuing education classes with certified dental assistants. It will also help to establish a standard of care within dental offices for dental assistants to strive toward. Most importantly, it will define a specific career progression for dental assistants. If they want to make more money and have more responsibility, they can become certified or continue to become dental hygienists. Either way there will be a benefit to the public because of the increased opportunities to upgrade one’s skills to a higher level or learn about current practice standards. The formal recognition of dental assistants as health professionals may also focus efforts on improving the teaching skills of supervising dentists for the dental assistants that they oversee.

Cost-Effective Means of Protecting the Public

A registration and certification program for dental assistants, as drafted in the proposal, is the most cost-effective means of regulating the profession. Under the proposal, the Dental Quality Assurance Commission, an existing regulatory body, would be responsible for the credentialing and oversight of the profession. The costs of regulation would be borne by the professionals. There are estimated to be about 8,000 dental assistants in Washington which means that the cost per provider would be relatively low. An alternative regulatory option would require the Department of Health to be the regulatory entity with a separate advisory body composed of dental assistants. Another option is to allow dental assistants to continue to be regulated by the dentist that employs them. While this is a cost-effective method, there is no assurance that the public will be protected when the outcome would be a different standard of expectations from each dentist.

Expansion of Independent Practice Authority for Dental Hygienists

Current law allows dental hygienists to practice independent of dental supervision in a couple of scenarios. One is where the hygienist qualifies to apply sealants and fluoride varnishes in

¹⁵ Washington State Department of Health. *Dental Assistants and Dental Hygienists Sunrise Review*. Olympia, Washington: Washington State Department of Health, November 1994 (revised January 1995). 13.

community-based sealant programs.¹⁶ The other allows the hygienist with two years of practical clinical experience within the prior five years to perform certain services in a health care facility.¹⁷ This proposal will allow licensed dental hygienists who have a baccalaureate in dental hygiene to practice independent of dentist supervision regardless of the setting.

While not related to independent practice and not an expansion of their scope of practice, this proposal also allows an out-of-state applicant for a dental hygiene license to have an additional eighteen months to complete the restorative requirements associated with obtaining a license in Washington. The applicant realizes that Washington currently has a high scope of practice for dental hygienists and that this can be a double-edged sword in that licensed providers will be able to perform more services, but it may keep others out of the profession.¹⁸ The applicant is interested to know if the eighteen month extension adequately reduces a barrier for entrance into the profession and if there are other alternatives for maintaining the high level of practice.

One other issue that is unrelated to independent practice is an update of terminology related to dental hygienists. The applicant does not intend to change the scope of practice for dental hygienists beyond the independent practice element and would be interested to hear whether or not there are any concerns about revising this language in section 23.

Harm or Endangerment of the Public from Unregulated Practice

The potential harm that dental hygienists present to patients is minimized by the training and on-the-job supervision that they receive. Even though this proposal removes the protection of supervision, it is believed that any potential harm that this poses can be offset by the fact that the dental hygienists who will practice independently must have received their training from a baccalaureate program. If there are other safeguards that are necessary to further protect the public from harm, the applicant welcomes any such suggestions.

The harm to the public of not having any oral health providers available must also be seriously considered. If the potential harm of independent dental hygienists is only minimal and appropriate safeguards can be devised, then consideration must be given to the harm of not acting. While there are no assurances that dental hygienists will opt to practice independently in areas experiencing shortages of dentists, failure to adopt this alternative practice will guarantee that shortages will continue. Even though, it would be optimal to have all patients seen by a dentist, the supply of dentists is simply not great enough to allow this to happen. To that end, in 1997, the Joint Select Committee on Oral Health Care reported:

A dental diagnosis of the condition is the preferred methodology for treating the total oral health problems of a patient. But where dentists are not routinely available, and because dental hygienists may legally screen and can recognize incipient dental caries, the ability of dental hygienists to apply sealants and

¹⁶ RCW 18.29.220.

¹⁷ RCW 18.29.056.

¹⁸ WWAMI Center for Health Workforce Studies. *Distribution of the Dental Workforce in Washington State: Patterns and Consequences*. Seattle, Washington: University of Washington, March 2001. 30.

fluoride treatments or other scientifically proven and effective treatments to vulnerable clients for the purpose of prevention may be a viable option.¹⁹

The report continued with a recommendation that dental hygienists be allowed to screen members of the general public for the application of preventative treatments.

The shortage of dentists in certain communities leaves countless Washingtonians without an option for receiving dental care. Allowing dental hygienists to establish independent practices would at least give these people some access to oral health care. In addition, an independent practice model could attract more people to the profession and increase the overall supply of providers.

The applicant is interested in a discussion of the experience of independent practice models for dental hygienists in the settings where it is currently allowed in Washington and elsewhere. Several reports, including the 1994 dental sunrise review, have suggested that independent practice could relieve some of the strains on the oral health care system in Washington.²⁰

Public Need and Benefit from Assurances of Professional Ability

Any time that one profession that operates under the supervision of another profession obtains an increased level of independence, there must be assurances that the providers are adequately prepared for such a move. These assurances would come from the fact that the independent providers would all have baccalaureate degrees in dental hygiene or a related field. In addition, the shift from supervision by the Department of Health to a dental hygiene committee that must answer to the Dental Quality Assurance Commission should provide added scrutiny of the abilities of dental hygienists to practice without supervision.

Cost-Effective Means of Protecting the Public

Dental hygienists are already regulated by the Department of Health. The proposal will place that regulation with a committee of the Dental Quality Assurance Commission. If there is any additional cost for regulating the profession under this structure, it should be minimal.

Conclusion

The proposal being submitted to the Sunrise Review process is not intended to advocate a particular position, but to respond to several of the concerns raised by the current and anticipated shortage of oral health providers. Facing the oral health care personnel shortages will require innovations in the way that dental care is provided in Washington. The applicant looks forward to receiving comments as to how it can be improved so that Washington can get in front of the curve in dental health care.

¹⁹ Joint Select Committee on Oral Health Care. *Report with Recommendations from the Joint Select Committee on Access to Oral Health Care*. Olympia, Washington: Washington State Legislature, January 9, 1997.

²⁰ Washington State Department of Health. *Dental Assistants and Dental Hygienists Sunrise Review*. Olympia, Washington: Washington State Department of Health, November 1994 (revised January 1995); WWAMI Center for Health Workforce Studies. *Distribution of the Dental Workforce in Washington State: Patterns and Consequences*. Seattle, Washington: University of Washington, March 2001. 30-31; Campaign for Oral Health Parity, *Keep America Smiling: Oral Health in America*. Chicago, Illinois: Oral Health America, 2003. 16.

Appendix: B
Meeting Summary

Dental Care Services
Sunrise Review
Public Hearing
October 6, 2003

Hearing location: Department of Health, 310 Israel Road, Tumwater, Washington
Hearing Panel: Joan Baird (public member); Neil Edgin (Department of Health); Maxine Hayes, MD (State Health Officer)

Department Staff: Steve Boruchowitz, Sherry Thomas

Rep. Eileen Cody, Chris Blake: Proponent

Rep. Cody and Chris Blake reviewed the proposal. The primary points are that it:

- combines the regulation of all oral health care professionals under a single chapter;
- requires dental assistants to be either registered or certified;
- allows dental hygienists to obtain an endorsement to practice independent of dental supervision; and
- establishes a subcommittee on dental hygiene practices to regulate the practice of dental hygiene in coordination with the Dental Quality Assurance Commission.

This proposal is put forth at a time when Washington, like much of the nation, faces critical shortages of personnel in numerous health professions. As several recent reports attest, these shortages apply to the dental professions as well. While the shortages may be attributable to several factors, it is apparent that new models for the practices of the oral health professions will be necessary to face these challenges.

One factor that limits the ability of dentists to see more patients is the availability of dental hygienists. Compared with the rest of the country, Washington faces a significant shortage of dental hygienists. The current lack of oral health professionals is harming the public. An incremental regulatory scheme consisting of both registration and certification for dental assistants can create career ladders to attract people to the profession, retain them, and encourage them to continue their education so that they may provide more skills to the public. Because oral health care providers practice along a spectrum of care, these professionals are ideal candidates for facilitating career ladder opportunities.

The shortage of dentists in certain communities leaves countless Washingtonians without an option for receiving dental care. Allowing dental hygienists to establish independent practices would at least give these people some access to oral health care. In addition, an independent practice model could attract more people to the profession and increase the overall supply of providers.

The proposal being submitted to the Sunrise Review process is not intended to advocate a particular position, but to respond to several of the concerns raised by the current and anticipated

shortage of oral health providers. Facing the oral health care personnel shortages will require innovations in the way that dental care is provided in Washington. The applicant looks forward to receiving comments as to how it can be improved so that Washington can get in front of the curve in dental health care.

Karen Lauerman, Dental Assistant National Board

Ms. Lauerman reviewed the types of certification exams DANB has available for states to use as part of their credentialing process. Their exams cover most of the expanded functions being proposed in this review.

There are currently 1040 dental assistants in Washington state who have DANB certification.

There may be an issue with the use of the term “certified dental assistant” as this phrase is trademarked by DANB.

Washington State Dental Hygiene Association (WSDHA)

Melissa Johnson, Kerry Warden, Sharon Golightly, Colleen Gaylord, Doreen Naughton, Susan Savage and Tina Colby represented WSDHA.

The WSDHA supports the proposal submitted by Rep. Cody, in particular the advanced practice for dental hygienists and the separate regulatory committee. It will serve the public need for a more diverse workforce. The proposed model is an acceptable compromise and financially responsible.

New Mexico has had a similar, separate committee in place for 10 years with great success.

Advanced dental hygiene practice is important as the number of dentists declines. Even in dental offices, the unsupervised practice provisions will help.

The association does not support removing the restorative provisions from the scope of practice (as either an endorsement or a limited license). Even if the hygienist does not do the restorative services, the training helps them to evaluate restorations and what problems may be occurring as a result of the restoration. Washington’s unique scope of practice makes our state a “welcoming environment.”

The association would like to see administration of local anesthesia a part of the dental hygienist advanced scope of practice.

The association does not support allowing dental assistants to do supragingival scaling. It is not likely that a person has only supragingival problems. Any other scaling is dental hygiene practice and should not be done by an assistant.

Washington State Denturists Association

Steve Wehrly

The denturists believe they should be left out of any overhaul of the dental care services statutes. There is no purpose to be served in these changes.

They also have questions about some drafting issues, in particular, is the removal of the disciplinary section a mistake? Other specific concerns were cited in several sections.

Washington State Dental Association (WSDA)

Mary Smith, DDS, Mark Walker, DDS, David Hemion, Linda Hull

The WSDA has some concerns with the proposal. Workforce (in particular dentist) shortages and lack of public funding for oral healthcare programs are the main reasons there are access to care issues. This proposal does not help on that score.

There are five major changes the proposal makes and none meets the 3 sunrise criteria (public protection, public benefit and cost effectiveness).

The changes to create a committee on dental hygiene under the Commission are flawed and possibly have legal problems. It will result in regulatory confusion. It requires the Commission to approve the committee's action even if it disagrees with the standards used.

The changes to expand the scope of practice for dental hygienists will protect the public less by allowing hygienists to make diagnoses that they are not qualified to do.

The changes to allow "advanced practice" hygienists will allow them to treat patients without dental or medical supervision, which weakens protections for patients. Using the BA degree as the benchmark for allowing unsupervised practice is not relevant to scope of practice. In Colorado, there are only 27 hygienists who practice fully unsupervised in any setting. If hygienists in our state were to have this ability, they could not go into rural areas and provide definitive care, although that is what these underserved areas are crying out for. This model is not cost-effective and there is no science to support it.

The changes to register and certify dental assistants are unnecessary as assistants have practiced unregulated for a long time without problems. The use of the title "registered" will be confusing to the public. The association understands that the unlicensed dental assistant is not covered under the Uniform Disciplinary Act.

The changes to allow dental assistants to perform expanded functions are a good concept, but the implementation has problems. The use of expanded functions varies greatly by dental office, and certifying an assistant for all functions is unnecessary. There are some functions, such as restorative and preventive services, that should be included in expanded functions for assistants. The cost of regulating dental assistants is not justified.

WSDA supports the proposal that removes restorative from the hygienist scope of practice and making it an endorsement.

On the issue of access to care, the problem is dental disease and this proposal does nothing to address that. Colorado proves that.

Washington Association of Nurse Anesthetists

Todd Herzog

WANA supports the scope of practice changes for dental hygienists.

The association does ask that in Section 5(6) of the proposal that a provision be added to allow dentists to work with any licensed anesthesiologist. Currently WAC 246-817-180 requires additional training if a nurse is used, but no additional training if a physician is used. This is an unlevel playing field. Please correct this now.

Washington Alliance of Dental Hygiene Practitioners

Anita Munson Brock

Hygienists can practice safely and do so unsupervised. The physical presence of a dentist is not required for safe practice. Our experience with unsupervised practice shows that.

We suggest adding that the BA requirement includes a component on how to work with the mentally disabled population.

This proposal gets to improved access and establishes educational and career tracks for dental care professionals. One problem now is that there are few dentists to refer dental hygienist patients to. So even in settings where hygienists can see patients unsupervised, if another issue comes up outside of the hygiene scope of practice, the patient has no access to care. Community clinics are at capacity.

If there were intermediate professions to help increase access to care, that would help. We should look at the “medical model” where, for example, physician assistants fill a gap where physicians are not available. We suggest an amendment to the proposed legislation that would require the Department of Health to conduct a study on alternative regulatory models.

It is also suggested that the hygienists be included in the ABCD type projects.

University of Washington School of Dentistry

Norma Wells

We need to consider triage in our state. A dental hygienist’s ability to triage and forward a patient appropriately would be a very valuable tool. An advanced or mid-level practitioner with this capability needs to happen in our state and it needs to happen now.

Citizen

Laurie Roy

The reason dentists are only seeing people with severe problems, rather than for cleanings and sealants as Dr. Walker of the WSDA stated, is that the public does not know about sealants and other preventive measures available to avoid these emergent problems. We need to intervene before they become emergent. We need intermediate providers in the communities to search these people out and educate them. We cannot address everyone's problems with the providers available. We need a long-term solution, not a short-term fix. We need to reach the 0-3 age group with prevention and keep them healthy so the dentists we have now will be enough.

Also, hygienists are not a part of the ABCD Program for 0-5 year old kids. That is a mistake. We definitely should be included.

Appendix: C
Participant List

Participant List

NAME	ORGANIZATION
Karen Lauerman, DANB	Dental Assisting National Board
Melisa Johnson, Lobbyist	Washington State Dental Hygienists' Association
Kerry Warden, RDH	Washington State Dental Hygienists' Association
Sharon Golightly, Ph.D, RDH, Ed.D	Washington State Dental Hygienists' Association
Colleen Gaylord, RDH	Washington State Dental Hygienists' Association
Doreen Naughton, RDH, B.S.D.H.	Washington State Dental Hygienists' Association
Susan Savage, RDH	Washington State Dental Hygienists' Association
Tina Colby, RDH	Washington State Dental Hygienists' Association
Steve Wehrly	Denturists
Esther Smith, RDH	Washington State Dental Hygienists' Association
Mary Smith, RDH	Washington State Dental Hygienists' Association
Mark Walker, DDS	Washington State Dental Association
David Hemion	Washington State Dental Association
Linda Hull	Washington State Dental Association
Joella Pyatt	Washington State Dental Hygienists' Association
Todd W. Herzog	Washington Association of Nurse Anesthetists
Luci Phillips	Washington Denturist Board
Melody Scheer	Clark County
Larry Momo	Smile Savens
Gary Allen	Willamette Dental
Kristen Simmons	Willamette Dental
Lauri Pruett	None
Anita Munson Brock	Washington Alliance of Dental Hygiene Practitioners
Cyndi S. Newman, RDH, BS	Clallam and Jefferson County HHS and Olycad
Sharon Case	Washington Association of Community & Migrant Health Centers
Jacqueline Kulbel, CDA, M.A.	Washington State Dental Assistants Association
Martin Leiberman, DDS	Puget Sound Neighborhood Health Centers
Monica L. Hospenthal, RDH, M.Ed.	EWU at pirece College Fort Steilacoom
Norma Wells	U.W. School of Dental Hygiene
Jackie Kulbel	Washington State Dental Assistant Association
Andrea Henderson	Washington State Dental Assistant Association
Karen Davidson	Washington State Dental Assistant Association
Joan Martin	Washington State Dental Assistant Association
Andy Henderson	Washington State Dental Assistant Association
Lynn McDonough	Washington State Dental Assistant Association
Kathy Leviton	Washington State Dental Assistant Association
Debbie Lewandowski	Washington State Dental Assistant Association
Jenny Schuler	Washington State Dental Assistant Association
Laurie Roy	None

Review Panel

Dr. Maxine Hayes, State Health Officer
 Neil Edgin, Department of Health
 Joan Baird, Public Member

Department of Health Staff

Steve Boruchowitz

Sherry Thomas

Pam Lovinger

Mary Dale

Appendix: D

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Appendix: E
Proposed Legislation

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-3273.2/04 2nd ROUGH DRAFT

ATTY/TYPIST: ML:ads

BRIEF DESCRIPTION: Concerning dental health care providers.

1 AN ACT Relating to dental practices; amending RCW 18.32.030,
2 18.32.0351, 18.32.655, 18.32.0363, 18.32.0358, 18.32.0361, 18.30.050,
3 18.30.065, 18.30.100, 18.29.120, 18.32.020, 18.29.050, 18.29.056,
4 18.32.039, 18.32.040, 18.30.090, 18.29.021, 18.29.045, 18.32.185,
5 18.32.190, 18.29.190, 18.29.200, 18.32.195, 18.32.530, 18.32.665,
6 18.32.755, 18.32.675, 18.32.745, 18.32.735, 18.30.020, 18.32.390,
7 18.32.226, 18.32.534, 18.32.695, 18.32.705, 18.32.715, 18.30.150,
8 18.120.020, and 43.70.650; reenacting and amending RCW 18.130.040,
9 69.41.010, and 69.41.030; adding a new chapter to Title 18 RCW;
10 recodifying RCW 18.32.030, 18.32.0351, 18.32.655, 18.32.0363,
11 18.32.0358, 18.32.0361, 18.30.050, 18.30.065, 18.30.100, 18.29.120,
12 18.32.020, 18.29.050, 18.29.056, 18.32.039, 18.32.040, 18.30.090,
13 18.29.021, 18.29.045, 18.32.185, 18.32.190, 18.29.190, 18.29.200,
14 18.32.195, 18.32.530, 18.32.665, 18.32.755, 18.32.675, 18.32.745,
15 18.32.735, 18.30.020, 18.32.390, 18.32.226, 18.32.534, 18.32.695,
16 18.32.705, 18.32.715, and 18.30.150; repealing RCW 18.29.005,
17 18.29.011, 18.29.060, 18.29.071, 18.29.076, 18.29.100, 18.29.110,
18 18.29.130, 18.29.140, 18.29.150, 18.29.160, 18.29.170, 18.29.180,
19 18.29.210, 18.29.220, 18.29.900, 18.29.910, 18.29.915, 18.30.005,
20 18.30.010, 18.30.030, 18.30.040, 18.30.060, 18.30.120, 18.30.130,
21 18.30.135, 18.30.140, 18.30.900, 18.30.901, 18.32.002, 18.32.010,

1 18.32.0353, 18.32.0355, 18.32.0357, 18.32.0365, 18.32.050, 18.32.091,
2 18.32.100, 18.32.110, 18.32.160, 18.32.170, 18.32.180, 18.32.215,
3 18.32.220, 18.32.533, 18.32.640, 18.32.685, 18.32.725, 18.32.900,
4 18.32.910, 18.32.915, and 18.32.916; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that access to quality
7 oral health care is of great importance to protecting the health of the
8 people of Washington. Many Washingtonians do not receive the oral
9 health care that they need. The significant shortage of dental
10 hygienists and the anticipated retirement of half of the state's supply
11 of dentists within the next ten years will have severe impacts on the
12 oral health of Washingtonians.

13 It is the intent of the legislature to address oral health issues
14 from a health systems perspective. An oral health system in which oral
15 health professionals are regulated along the spectrum of the services
16 they provide and where strategies to increase access to oral health
17 services are addressed systematically will encourage dialogue on these
18 issues and facilitate their management.

19 NEW SECTION. **Sec. 2.** The definitions in this section apply
20 throughout this chapter unless the context clearly requires otherwise.

21 (1) "Board" means the Washington state board of denturists created
22 in RCW 18.30.050 (as recodified by this act).

23 (2) "Commission" means the Washington state dental quality
24 assurance commission.

25 (3) "Committee" means the Washington state committee on dental
26 hygienist practices.

27 (4) "Credential" means the license, certificate, or registration
28 issued to a person.

29 (5) "Dental assistant" means a person who is either registered or
30 certified by the commission to provide supportive services to a
31 licensed dentist or dental hygienist to the extent provided in this
32 chapter and under the close supervision of the dentist.

33 (6) "Dental hygiene diagnosis" means the identification by a dental
34 hygienist, following the examination and evaluation of a patient, of

1 oral conditions that are appropriately treated by procedures within the
2 dental hygienist's scope of practice and those oral conditions that are
3 appropriate to refer.

4 (7) "Dental hygienist" means a preventative oral health
5 professional who has graduated from an institute of higher education's
6 accredited dental hygiene program and is licensed by the committee.

7 (8) "Dental hygienist--advanced practice" means a preventative oral
8 health professional licensed under this chapter with a baccalaureate
9 degree in dental hygiene from an institute of higher education approved
10 by the committee, or a preventative oral health professional licensed
11 under this chapter with a baccalaureate degree in a related field from
12 an institute of higher education approved by the committee.

13 (9) "Dentist" means a person licensed under this chapter to
14 practice dentistry.

15 (10) "Denture" means a removable full or partial upper or lower
16 dental appliance to be worn in the mouth to replace missing natural
17 teeth.

18 (11) "Denturist" means a person licensed under this chapter to
19 engage in the practice of denturism.

20 (12) "Department" means the department of health.

21 (13) "Secretary" means the secretary of health or the secretary's
22 designee.

23 (14) "Surfaces of teeth" means the portions of the crown and root
24 surface to which there is no periodontal membrane attached.

25 **Sec. 3.** RCW 18.32.030 and 2003 c 282 s 1 are each amended to read
26 as follows:

27 The following practices, acts, and operations are excepted from the
28 operation of the provisions of this chapter:

29 (1) The practice of a profession by an individual who is licensed,
30 certified, or registered under other laws of this state and who is
31 performing services within the authorized scope of practice;

32 (2) The rendering of dental relief in emergency cases in the
33 practice of his or her profession by a physician or surgeon, licensed
34 as such and registered under the laws of this state, unless the
35 physician or surgeon undertakes to or does reproduce lost parts of the
36 human teeth in the mouth or to restore or to replace in the human mouth
37 lost or missing teeth;

1 (~~(+2)~~) (3) The practice of dentistry, dental hygiene, denturism,
2 or dental assisting in the discharge of official duties by dentists,
3 denturists, dental hygienists, and dental assistants in the United
4 States federal services on federal reservations, including but not
5 limited to the armed services, coast guard, public health service,
6 veterans' bureau, or bureau of Indian affairs;

7 (~~(+3)~~) (4) Dental schools or colleges approved under RCW 18.32.040
8 (as recodified by this act), and the practice of dentistry by students
9 in accredited dental schools or colleges approved by the commission,
10 when acting under the direction and supervision of Washington state-
11 licensed dental school faculty;

12 (~~(+4)~~) (5) The practice of dentistry by licensed dentists of other
13 states or countries while appearing as clinicians at meetings of the
14 Washington state dental association, or component parts thereof, or at
15 meetings sanctioned by them, or other groups approved by the
16 commission;

17 (~~(+5)~~) (6) The use of roentgen and other rays for making
18 radiographs or similar records of dental or oral tissues, under the
19 supervision of a licensed dentist or physician;

20 (~~(+6)~~) (7) The making, repairing, altering, or supplying of
21 artificial restorations, substitutions, appliances, or materials for
22 the correction of disease, loss, deformity, malposition, dislocation,
23 fracture, injury to the jaws, teeth, lips, gums, cheeks, palate, or
24 associated tissues or parts; providing the same are made, repaired,
25 altered, or supplied pursuant to the written instructions and order of
26 a licensed dentist which may be accompanied by casts, models, or
27 impressions furnished by the dentist, and the prescriptions shall be
28 retained and filed for a period of not less than three years and shall
29 be available to and subject to the examination of the secretary or the
30 secretary's authorized representatives;

31 (~~(+7)~~) (8) The removal of deposits and stains from the surfaces of
32 the teeth, the application of topical preventative or prophylactic
33 agents, and the polishing and smoothing of restorations, when performed
34 or prescribed by a dental hygienist licensed under the laws of this
35 state;

36 (~~(+8)~~) (9) A qualified and licensed physician and surgeon or
37 osteopathic physician and surgeon extracting teeth or performing oral

1 surgery pursuant to the scope of practice under chapter 18.71 or 18.57
2 RCW;

3 ~~((9) The performing of dental operations or services by persons
4 not licensed under this chapter when performed under the supervision of
5 a licensed dentist: PROVIDED HOWEVER, That such nonlicensed person
6 shall in no event perform the following dental operations or services
7 unless permitted to be performed by the person under this chapter or
8 chapters 18.29, 18.57, 18.71, and 18.79 RCW as it applies to registered
9 nurses and advanced registered nurse practitioners:~~

10 ~~(a) Any removal of or addition to the hard or soft tissue of the
11 oral cavity;~~

12 ~~(b) Any diagnosis of or prescription for treatment of disease,
13 pain, deformity, deficiency, injury, or physical condition of the human
14 teeth or jaws, or adjacent structure;~~

15 ~~(c) Any administration of general or injected local anaesthetic of
16 any nature in connection with a dental operation, including intravenous
17 sedation;~~

18 ~~(d) Any oral prophylaxis;~~

19 ~~(e) The taking of any impressions of the teeth or jaw or the
20 relationships of the teeth or jaws, for the purpose of fabricating any
21 intra-oral restoration, appliance, or prosthesis))~~

22 (10) Dental hygiene programs approved by the committee and the
23 practice of dental hygiene by students in accredited dental hygiene
24 programs approved by the committee, when acting under the direction and
25 supervision of Washington state licensed dental hygiene faculty;

26 (11) The practice of denturism by students enrolled in a school
27 approved by the commission. The performance of services must be
28 pursuant to a course of instruction or an assignment from an instructor
29 and under the supervision of an instructor;

30 (12) Work performed by dental labs and dental technicians under the
31 written prescription of a dentist.

32 **GOVERNANCE**

33 **Sec. 4.** RCW 18.32.0351 and 1994 sp.s. c 9 s 204 are each amended
34 to read as follows:

35 The Washington state dental quality assurance commission is
36 established, consisting of ~~((fourteen))~~ eighteen members each appointed

1 by the governor to a four-year term. No member may serve more than two
2 consecutive full terms. (~~In appointing the initial members of the~~
3 ~~commission, it is the intent of the legislature that, to the extent~~
4 ~~possible, members of the previous boards and committees regulating~~
5 ~~these professions be appointed to the commission. Members of the~~
6 ~~commission hold office until their successors are appointed. The~~
7 ~~governor may appoint members of the initial commission to staggered~~
8 ~~terms of from one to four years. Thereafter, all members shall be~~
9 ~~appointed to full four-year terms.)) Twelve members of the commission
10 must be dentists, two members must be dental hygienists, two members
11 must be dental assistants, and two members must be public members. The
12 attorney general shall advise the commission and represent it in all
13 legal proceedings.~~

14 Members of the commission must be citizens of the United States and
15 residents of this state. Dentist members must be licensed dentists in
16 the active practice of dentistry for a period of at least five years
17 before appointment. Of the twelve dentists appointed to the
18 commission, at least four must reside and engage in the active practice
19 of dentistry east of the summit of the Cascade mountain range. Public
20 members of the commission may not be a member of any other health care
21 licensing board or commission, or have a fiduciary obligation to a
22 facility rendering health services regulated by the commission, or have
23 a material or financial interest in the rendering of health services
24 regulated by the commission.

25 NEW SECTION. Sec. 5. In addition to other duties specified in
26 this chapter, the commission has the following powers and duties:

27 (1) To prepare or determine the nature of examinations for
28 applicants to practice dentistry or dental assisting;

29 (2) To establish the qualifications and the educational and
30 training requirements for licensure as a dentist or certification or
31 registration as a dental assistant;

32 (3) To establish requirements for the renewal of credentials to
33 practice dentistry or dental assisting including continuing education
34 requirements;

35 (4) To appoint members of panels consisting of not less than three
36 members;

1 (5) To request that the secretary appoint pro tempore members as
2 the workload of the commission requires;

3 (6) To adopt standards governing the administration of sedation and
4 general anesthesia by licensed dentists, including necessary training,
5 education, equipment, and the issuance of any permits, certificates, or
6 registration as required;

7 (7) To ratify the final actions of the committee as related to the
8 education, training, licensure, and discipline of dental hygienists, in
9 accordance with section ... of this act; and

10 (8) To adopt rules, in accordance with chapter 34.05 RCW, as
11 necessary to implement this chapter and chapter 18.130 RCW as they
12 pertain to dentists and dental assistants.

13 **Sec. 6.** RCW 18.32.655 and 1994 sp.s. c 9 s 222 are each amended to
14 read as follows:

15 The commission shall:

16 (1) Require licensed dentists to keep and maintain a copy of each
17 laboratory referral instruction, describing detailed services rendered,
18 for a period to be determined by the commission but not more than three
19 years, and may require the production of all such records for
20 examination by the commission or its authorized representatives; and

21 (2) Adopt reasonable rules requiring licensed dentists to make,
22 maintain, and produce for examination by the commission or its
23 authorized representatives such other records as may be reasonable and
24 proper in the performance of its duties and enforcing the provisions of
25 this chapter.

26 **Sec. 7.** RCW 18.32.0363 and 1994 sp.s. c 9 s 209 are each amended
27 to read as follows:

28 The commission may contract with competent persons on a temporary
29 basis to assist in developing or administering examinations for
30 licensure.

31 The commission may enter into compacts and agreements with other
32 states and with organizations formed by several states, for the purpose
33 of conducting multistate licensing examinations. The commission may
34 enter into the compacts and agreements even though they would result in
35 the examination of a candidate for a license in this state by an
36 examiner or examiners from another state or states, and even though the

1 compacts and agreements would result in the examination of a candidate
2 or candidates for a license in another state or states by an examiner
3 or examiners from this state.

4 NEW SECTION. **Sec. 8.** The commission shall ratify the final
5 actions of the committee unless the commission makes a specific finding
6 that a final action:

- 7 (1) Is beyond the jurisdiction of the committee;
- 8 (2) Creates an undue financial impact upon the commission; or
- 9 (3) Is not supported by the record.

10 **Sec. 9.** RCW 18.32.0358 and 1994 sp.s. c 9 s 226 are each amended
11 to read as follows:

12 The commission is the successor in interest of the board of dental
13 examiners and the dental disciplinary board. All contracts,
14 undertakings, agreements, rules, regulations, and policies continue in
15 full force and effect on July 1, 1994, unless otherwise repealed or
16 rejected by chapter 9, Laws of 1994 sp. sess. or by the commission.

17 **Sec. 10.** RCW 18.32.0361 and 1999 c 366 s 3 are each amended to
18 read as follows:

19 (1) Each member of the commission shall be compensated in
20 accordance with RCW 43.03.265. Members shall be reimbursed for travel
21 expenses incurred in the actual performance of their duties, as
22 provided in RCW 43.03.050 and 43.03.060. (~~Commission members shall be~~
23 ~~compensated and reimbursed for their activities in developing or~~
24 ~~administering a multistate licensing examination, as provided in this~~
25 ~~chapter.))~~

26 (2) Commission members shall be compensated and reimbursed pursuant
27 to subsection (1) of this section for their activities in developing or
28 administering a multistate licensing examination pursuant to the
29 commission's compact or agreement with another state or states or with
30 organizations formed by several states.

31 **Sec. 11.** RCW 18.30.050 and 2002 c 160 s 4 are each amended to read
32 as follows:

33 (1) The Washington state board of denturists is created. The board
34 shall consist of seven members appointed by the secretary as follows:

1 (a) Four members of the board must be denturists licensed under
2 this chapter, except initial appointees, who must have five years'
3 experience in the field of denturism or a related field.

4 (b) Two members shall be selected from persons who are not
5 affiliated with any health care profession or facility, at least one of
6 whom must be over sixty-five years of age representing the elderly.

7 (c) One member must be a dentist licensed in the state of
8 Washington.

9 (2) The members of the board shall serve for terms of three years.
10 The terms of the initial members shall be staggered, with the members
11 appointed under subsection (1)(a) of this section serving two-year and
12 three-year terms initially and the members appointed under subsection
13 (1)(b) and (c) of this section serving one-year, two-year, and three-
14 year terms initially. Vacancies shall be filled in the same manner as
15 the original appointments are made. Appointments to fill vacancies
16 shall be for the remainder of the unexpired term of the vacant
17 position.

18 (3) No appointee may serve more than two consecutive terms.

19 (4) Members of the board shall be reimbursed for travel expenses
20 under RCW 43.03.050 and 43.03.060.

21 (5) A member of the board may be removed for just cause by the
22 secretary.

23 **Sec. 12.** RCW 18.30.065 and 2002 c 160 s 5 are each amended to read
24 as follows:

25 The board shall:

26 (1) Determine the qualifications of persons applying for licensure
27 under this chapter;

28 (2) Prescribe, administer, and determine the requirements for
29 examinations under this chapter and establish a passing grade for
30 licensure under this chapter;

31 (3) Adopt rules under chapter 34.05 RCW to carry out the provisions
32 of this chapter in consultation and in agreement with the secretary;

33 (4) (~~Have authority to provide requirements for continuing~~
34 ~~competency as a condition of license renewal by rule~~) Establish
35 requirements for the renewal of licenses to practice denturism
36 including continuing education requirements in agreement with the
37 secretary; and

1 (5) Evaluate and approve those schools from which graduation is
2 accepted as proof of an applicant's completion of coursework
3 requirements for licensure.

4 **Sec. 13.** RCW 18.30.100 and 2002 c 160 s 7 are each amended to read
5 as follows:

6 The board shall administer the examinations for licensing under
7 this chapter, subject to the following requirements:

8 (1) Examinations shall determine the qualifications, fitness, and
9 ability of the applicant to practice denturism. The test shall include
10 a written examination and a practical demonstration of skills.

11 (2) Examinations shall be held at least annually.

12 (3) The first examination shall be conducted not later than July 1,
13 1995.

14 (4) The written examination shall cover the following subjects:

15 (a) Head and oral anatomy and physiology; (b) oral pathology; (c)
16 partial denture construction and design; (d) microbiology; (e) clinical
17 dental technology; (f) dental laboratory technology; (g) clinical
18 jurisprudence; (h) asepsis; (i) medical emergencies; and (j)
19 cardiopulmonary resuscitation.

20 (5) Upon payment of the appropriate fee, an applicant who fails
21 either the written or practical examination may have additional
22 opportunities to take the portion of the examination that he or she
23 failed.

24 The secretary may hire trained persons licensed under this chapter
25 to prepare, administer, and grade the examinations or may contract with
26 regional examiners who meet qualifications adopted by the board.

27 NEW SECTION. **Sec. 14.** The Washington state committee on dental
28 hygienist practices is established as a standing committee of the
29 commission, consisting of seven members each appointed by the governor.
30 Four members of the committee must be dental hygienists, two must be
31 dentists, and one must be a member of the public. Of the initial
32 appointments, three members must be appointed for a term of two years,
33 two for a term of three years, and two for a term of four years.
34 Thereafter, all appointments must be for terms of four years.

35 Dental hygienist members must be licensed under this chapter and
36 residing in this state, must have at least five years' experience in

1 the practice of dental hygiene, and must be actively engaged in
2 practice within two years of appointment. Two of the dental hygienist
3 members, both dentist members, and the public member must also be
4 members of the commission. The dentist members must be licensed
5 dentists, must have at least five years' experience in the practice of
6 dentistry, and must be actively engaged in practice of dentistry. The
7 public member must have an interest in the rights of consumers of
8 dental services; may not be a member of any other health care licensing
9 commission, board, or committee; may not have a fiduciary obligation to
10 a facility rendering health services regulated by the commission,
11 board, or committee; or have a material or financial interest in the
12 rendering of health services regulated by the commission, board, or
13 committee.

14 NEW SECTION. **Sec. 15.** In addition to other duties specified in
15 this chapter, the committee has the following powers and duties,
16 subject to section 8 of this act:

17 (1) To develop and administer, or approve, or both, examinations to
18 applicants for licensure as dental hygienists under this chapter;

19 (2) To pass upon the qualifications of applicants for a license to
20 practice as a dental hygienist and to certify to the secretary duly
21 qualified applicants;

22 (3) To adopt rules, in accordance with chapter 34.05 RCW, as
23 necessary to implement this chapter and chapter 18.130 RCW as they
24 pertain to dental hygienists;

25 (4) To establish requirements for the renewal of dental hygienist
26 licenses, including continuing competency requirements;

27 (5) To keep an official record of all board proceedings. The
28 record is evidence of all proceedings of the board that are set forth
29 in the official record; and

30 (6) To adopt rules not inconsistent with the laws of this state,
31 when it deems appropriate, in response to questions put to it by
32 professional dental-related associations, dental hygienists, and
33 consumers in this state concerning the authority of dental hygienists
34 to perform certain acts.

35 **Sec. 16.** RCW 18.29.120 and 1995 c 198 s 5 are each amended to read
36 as follows:

1 The (~~secretary in consultation with the Washington dental hygiene~~
2 ~~examining~~) committee shall:

3 (1) Adopt rules in accordance with chapter 34.05 RCW necessary to
4 prepare and conduct examinations for dental hygiene licensure;

5 (2) Require an applicant for licensure to pass an examination
6 consisting of written and practical tests upon such subjects and of
7 such scope as the committee determines;

8 (3) Set the standards for passage of the examination;

9 (4) Administer at least two examinations each calendar year.
10 Additional examinations may be given as necessary; and

11 (5) Establish by rule the procedures for an appeal of an
12 examination failure.

13 NEW SECTION. **Sec. 17.** (1) Each member of the committee shall be
14 compensated in accordance with RCW 43.03.240. Members shall be
15 reimbursed for travel expenses incurred in the actual performance of
16 their duties, as provided in RCW 43.03.050 and 43.03.060.

17 (2) Committee members shall be compensated and reimbursed pursuant
18 to subsection (1) of this section for their activities in developing or
19 administering a multistate licensing examination.

20 NEW SECTION. **Sec. 18.** A majority of the members of each
21 commission, board, or committee created under this chapter constitutes
22 a quorum for the transaction of business for that commission, board, or
23 committee. The affirmative vote of a quorum of a commission, board, or
24 committee created under this chapter is required to carry a motion or
25 resolution, adopt a rule, or pass a measure.

26 The terms of the members of each commission, board, or committee
27 created under this chapter must be staggered. Each member holds office
28 for the term of his or her appointment and until his or her successor
29 is appointed and qualified.

30 Each commission, board, or committee created under this chapter
31 must elect officers each year or as necessary to fill vacancies. The
32 same person may not hold the office of chairperson for more than three
33 years in succession.

34 If a vacancy occurs on a commission, board, or committee created
35 under this chapter, the governor shall appoint a replacement to fill
36 the remainder of the unexpired term. A vacancy on a commission, board,

1 or committee created under this chapter does not impair the right of
2 the remaining members to exercise any power or to perform any duty, so
3 long as the power is exercised or the duty performed by a quorum of the
4 committee.

5 Every commission, board, or committee created under this chapter
6 must meet at least once a year and at such other times as may be
7 necessary to conduct business. Meetings of any commission, board, or
8 committee created under this chapter are governed by chapter 42.30 RCW,
9 the open public meetings act.

10 The department shall furnish such secretarial, clerical, and other
11 assistance as any commission, board, or committee created under this
12 chapter may require.

13 NEW SECTION. **Sec. 19.** The governor may remove a member of a
14 commission, board, or committee created under this chapter for neglect
15 of duty, misconduct, malfeasance, or misfeasance in office, after being
16 given a written statement of the charges against him or her and
17 sufficient opportunity to be heard in response to those charges.

18 NEW SECTION. **Sec. 20.** The members of the commission, board, and
19 committee created under this chapter and individuals acting on their
20 behalf are immune from suit in any action, civil or criminal, based on
21 any act or omission committed or omitted in good faith in the
22 performance of their duties.

23 NEW SECTION. **Sec. 21.** The secretary shall:

24 (1) Issue initial licenses, renewal licenses, temporary licenses,
25 duplicate licenses, and inactive status licenses on behalf of the
26 commission, board, or committee to persons who apply to practice a
27 profession regulated under this chapter and meet the qualifications
28 established by the appropriate commission, board, or committee;

29 (2) Establish licensing periods and administrative requirements
30 necessary to issue initial licenses, renewal licenses, temporary
31 licenses, duplicate licenses, and inactive status licenses to persons
32 who apply to practice a profession regulated under this chapter who
33 meet the qualifications established by the appropriate commission,
34 board, or committee;

1 (3) Determine fees for reviewing applications; issuing initial
2 licenses, renewal licenses, temporary licenses, duplicate licenses, and
3 inactive status licenses; administering examinations; and evaluating
4 educational programs as related to those licenses as provided in RCW
5 43.70.250 and 43.70.280;

6 (4) Provide secretarial, clerical, and administrative support to
7 the commission, board, and committee;

8 (5) Perform all functions authorized under chapter 18.130 RCW; and

9 (6) Perform all functions not specifically granted to any
10 commission, board, or committee created under this chapter and
11 necessary to properly regulate the professions created under this
12 chapter.

13 **SCOPE OF PRACTICE**

14 **Sec. 22.** RCW 18.32.020 and 1996 c 259 s 1 are each amended to read
15 as follows:

16 (1) A person practices dentistry, within the meaning of this
17 chapter, who ~~((+1))~~: (a) Represents himself or herself as being able
18 to diagnose, treat, remove stains and concretions from teeth, operate
19 or prescribe for any disease, pain, injury, deficiency, deformity, or
20 physical condition of the human teeth, alveolar process, gums, or
21 jaw~~((, or (2)))~~; (b) offers or undertakes by any means or methods to
22 diagnose, treat, remove stains or concretions from teeth, operate or
23 prescribe for any disease, pain, injury, deficiency, deformity, or
24 physical condition of the same, or take impressions of the teeth or
25 jaw~~((, or (3)))~~; (c) owns, maintains, or operates an office for the
26 practice of dentistry~~((, or (4)))~~; (d) engages in any of the practices
27 included in the curricula of recognized and approved dental schools or
28 colleges~~((, or (5)))~~; or ~~((+5))~~ (e) professes to the public by any method to
29 furnish, supply, construct, reproduce, or repair any prosthetic
30 denture, bridge, appliance, or other structure to be worn in the human
31 mouth.

32 (2) The fact that a person uses any dental degree, or designation,
33 or any card, device, directory, poster, sign, or other media
34 ~~((whereby))~~ in which he or she represents himself or herself to be a
35 dentist, shall be prima facie evidence that such person is engaged in
36 the practice of dentistry.

1 (3) X-ray diagnosis as to the method of dental practice in which
2 the diagnosis and examination is made of the normal and abnormal
3 structures, parts or functions of the human teeth, the alveolar
4 process, maxilla, mandible or soft tissues adjacent thereto, is
5 (~~hereby~~) declared to be the practice of dentistry. Any person other
6 than a regularly licensed physician or surgeon who makes any diagnosis
7 or interpretation or explanation, or attempts to diagnose or to make
8 any interpretation or explanation of the registered shadow or shadows
9 of any part of the human teeth, alveolar process, maxilla, mandible, or
10 soft tissues adjacent thereto by the use of x-ray is declared to be
11 engaged in the practice of dentistry, medicine, or surgery.

12 The practice of dentistry includes the performance of any dental or
13 oral and maxillofacial surgery. "Oral and maxillofacial surgery" means
14 the specialty of dentistry that includes the diagnosis and surgical and
15 adjunctive treatment of diseases, injuries, and defects of the hard and
16 soft tissues of the oral and maxillofacial region.

17 **Sec. 23.** RCW 18.29.050 and 2003 c 257 s 1 are each amended to read
18 as follows:

19 (~~Any~~) (1) A person licensed as a dental hygienist in this state
20 may perform dental operations and services only under the general
21 supervision, except where otherwise provided in this section, of a
22 licensed dentist, and under such supervision may be employed by
23 hospitals, boards of education of public or private schools, county
24 boards, boards of health, or public or charitable institutions, or in
25 dental offices.

26 (2) A person licensed as a dental hygienist in this state may
27 (~~remove deposits and stains from the surfaces of the teeth, may~~):
28 Perform a dental hygiene diagnosis; perform an oral prophylaxis,
29 including scaling and polishing; remove supragingival and subgingival
30 microbial flora and calculus; perform periodontal scaling, root
31 planing, and soft-tissue curettage; perform periodontal debridement;
32 perform bacteriological studies; perform caries susceptibility tests;
33 perform nutritional and tobacco counseling; apply topical fluoride;
34 perform a periodontal evaluation; perform radiographic and diagnostic
35 imaging; perform an oral evaluation as necessary; apply temporary
36 cementation; apply topical preventive or prophylactic agents(~~, may~~);
37 polish and smooth restorations(~~, may perform root planing and soft-~~

1 ~~tissue curettage,)); administer local anesthetic; administer nitrous~~
2 ~~oxide under the close supervision of a licensed dentist; place~~
3 ~~restorations into the cavity prepared by the licensed dentist; carve,~~
4 ~~contour, and adjust contacts and occlusion of the restoration under the~~
5 ~~close supervision of a licensed dentist; take impressions of the teeth~~
6 ~~or jaw or the relationships of the teeth or jaw, for the purpose of~~
7 ~~fabricating any intra-oral restoration, appliance, or prosthesis; and~~
8 ~~((may)) perform other dental operations and services delegated to them~~
9 ~~by a licensed dentist((;—PROVIDED HOWEVER, That)).~~

10 (3) Licensed dental hygienists shall in no event perform the
11 following dental operations or services:

12 ((+1)) (a) Any surgical removal of tissue of the oral cavity;

13 ((+2)) (b) Any prescription of drugs or medications requiring the
14 written order or prescription of a licensed dentist or physician,
15 except that a hygienist may place antimicrobials pursuant to the order
16 of a licensed dentist and under the dentist's required supervision; or

17 ((+3)) (c) Any dental diagnosis for treatment or treatment
18 planning((;—or

19 ~~(4) The taking of any impression of the teeth or jaw, or the~~
20 ~~relationships of the teeth or jaws, for the purpose of fabricating any~~
21 ~~intra-oral restoration, appliance, or prosthesis.~~

22 ~~Such licensed dental hygienists may perform dental operations and~~
23 ~~services only under the supervision of a licensed dentist, and under~~
24 ~~such supervision may be employed by hospitals, boards of education of~~
25 ~~public or private schools, county boards, boards of health, or public~~
26 ~~or charitable institutions, or in dental offices)).~~

27 (4) For the purposes of this section, a dental hygienist may
28 delegate certain functions to a dental assistant as established by the
29 committee by rule. The dental assistant may only perform the delegated
30 function under the close supervision of a dental hygienist.

31 NEW SECTION. Sec. 24. (1) A licensed dental hygienist--advanced
32 practice may perform all dental operations and services authorized
33 under RCW 18.29.050 (as recodified by this act) without dental
34 supervision. However, the administration of local anesthetic and
35 nitrous oxide may only be performed under the close supervision of a
36 licensed dentist or physician.

1 (2) For the purposes of this section, a licensed dental hygienist--
2 advanced practice may delegate certain functions to a dental assistant
3 to be performed under close supervision and as established by the
4 committee by rule.

5 (3) The committee may authorize advanced practice designation for
6 a licensed dental hygienist practicing in identified critical shortage
7 areas.

8 **Sec. 25.** RCW 18.29.056 and 1997 c 37 s 2 are each amended to read
9 as follows:

10 (1) Dental hygienists licensed under this chapter with two years'
11 practical clinical experience with a licensed dentist within the
12 preceding five years may be employed or retained by health care
13 facilities to perform authorized dental hygiene operations and services
14 without dental supervision, limited to (~~removal of deposits and stains~~
15 ~~from the surfaces of the teeth,~~): Performance of an oral prophylaxis,
16 including scaling and polishing; removal of supragingival and
17 subgingival microbial flora and calculus; application of topical
18 preventive or prophylactic agents((τ)); polishing and smoothing
19 restorations((τ)); and performance of root planing and soft-tissue
20 curettage((τ)); but shall not perform injections of anesthetic agents,
21 administration of nitrous oxide, or diagnosis for dental treatment.
22 The performance of dental hygiene operations and services in health
23 care facilities shall be limited to patients, students, and residents
24 of the facilities. For dental planning and dental treatment, dental
25 hygienists shall refer patients to licensed dentists.

26 (2) For the purposes of this section, "health care facilities" are
27 limited to: Hospitals; nursing homes; home health agencies; group
28 homes serving the elderly, handicapped, and juveniles; state-operated
29 institutions under the jurisdiction of the department of social and
30 health services or the department of corrections; and federal, state,
31 and local public health facilities, state or federally funded community
32 and migrant health centers, and tribal clinics.

33 NEW SECTION. **Sec. 26.** A licensed denturist may:

34 (1) Make, place, construct, alter, reproduce, or repair a denture;
35 and

1 (2) Take impressions and furnish or supply a denture directly to a
2 person or advise the use of a denture, and maintain a facility for the
3 same.

4 NEW SECTION. **Sec. 27.** (1) The commission shall adopt rules
5 relating to dental services that may be performed by registered dental
6 assistants and certified dental assistants. All dental services
7 performed by registered dental assistants and certified dental
8 assistants shall be performed under the close supervision of a licensed
9 dentist.

10 (2) In addition to any other limitations established by the
11 commission, registered dental assistants may not perform the following
12 procedures:

13 (a) Any scaling procedure, except that a certified dental assistant
14 may perform supragingival scaling under the close supervision of the
15 dentist;

16 (b) Any oral prophylaxis, except coronal polishing;

17 (c) Administration of any general or local anesthetic;

18 (d) Any removal of or addition to the hard or soft tissue of the
19 oral cavity, except that a certified dental assistant may place
20 restorations into the cavity prepared by a dentist, and carve, contour,
21 and adjust contacts and occlusions of the restoration under the close
22 supervision of a dentist;

23 (e) Any diagnosis of or prescription for treatment of disease,
24 pain, deformity, deficiency, injury, or physical condition of the human
25 teeth, jaw, or adjacent structures; and

26 (f) The taking of any impressions of the teeth or jaw or the
27 relationships of the teeth or jaws, for the purpose of fabricating any
28 intra-oral restoration, appliance, or prosthesis, except that a
29 certified dental assistant may take such impressions under the close
30 supervision of a dentist.

31 **LICENSING**

32 **Sec. 28.** RCW 18.32.039 and 1987 c 150 s 17 are each amended to
33 read as follows:

34 The uniform disciplinary act, chapter 18.130 RCW, governs

1 unlicensed practice, the issuance and denial of ((licenses))
2 credentials, and the discipline of ((licensees)) those credentialed
3 under this chapter.

4 NEW SECTION. **Sec. 29.** No person may practice a profession
5 regulated under this chapter without having a credential to practice in
6 that profession unless otherwise exempted.

7 **Sec. 30.** RCW 18.32.040 and 1994 sp.s. c 9 s 211 are each amended
8 to read as follows:

9 The commission shall require that every applicant for a license to
10 practice dentistry shall:

11 (1) Present satisfactory evidence of graduation from a dental
12 college, school, or dental department of an institution approved by the
13 commission;

14 (2) Submit, for the files of the commission, a recent picture duly
15 identified and attested; and

16 (3) Pass an examination prepared or approved by and administered
17 under the direction of the commission. The dentistry licensing
18 examination shall consist of practical and written tests upon such
19 subjects and of such scope as the commission determines. The
20 commission may accept, in lieu of all or part of a written examination,
21 a certificate granted by a national or regional testing organization
22 approved by the commission. The commission shall set the standards for
23 passing the examination. The secretary shall keep on file the
24 examination papers and records of examination for at least one year.
25 This file shall be open for inspection by the applicant or the
26 applicant's agent unless the disclosure will compromise the examination
27 process as determined by the commission or is exempted from disclosure
28 under RCW 42.17.250 through 42.17.340.

29 **Sec. 31.** RCW 18.30.090 and 2002 c 160 s 6 are each amended to read
30 as follows:

31 The secretary shall issue a license to practice denturism to an
32 applicant who submits a completed application, pays the appropriate
33 fees, and meets the following requirements:

34 (1) A person currently licensed to practice denturism under
35 statutory provisions of another state, territory of the United States,

1 District of Columbia, or Puerto Rico, with substantially equivalent
2 licensing standards to this chapter shall be licensed without
3 examination upon providing the department with the following:

4 (a) Proof of successfully passing a written and clinical
5 examination for denturism in a state, territory of the United States,
6 District of Columbia, or Puerto Rico, that the board has determined has
7 substantially equivalent licensing standards as those in this chapter,
8 including but not limited to both the written and clinical
9 examinations; ~~((and))~~

10 (b) An affidavit from the licensing agency where the person is
11 licensed or certified attesting to the fact of the person's licensure
12 or certification; and

13 (c) Proof of successful completion of special training in oral
14 pathology prescribed by the board, whether as part of an approved
15 associate degree program or equivalent training, and passage of an
16 examination prescribed by the board, which may be a part of the
17 examination for licensure to become a licensed denturist.

18 (2) A person graduating from a formal denturism program shall be
19 licensed if he or she:

20 (a) Documents successful completion of formal training with a major
21 course of study in denturism of not less than two years in duration at
22 an educational institution approved by the board; ~~((and))~~

23 (b) Passes a written and clinical examination approved by the
24 board; and

25 (c) Successfully completes special training in oral pathology
26 prescribed by the board, whether as part of an approved associate
27 degree program or equivalent training, and passes an examination
28 prescribed by the board, which may be a part of the examination for
29 licensure to become a licensed denturist.

30 **Sec. 32.** RCW 18.29.021 and 1996 c 191 s 10 are each amended to
31 read as follows:

32 (1) The ~~((department))~~ secretary shall issue a license to practice
33 dental hygiene to any applicant who ~~((, as determined by the~~
34 ~~secretary))~~:

35 (a) Has successfully completed an accredited educational program
36 approved by the ~~((secretary))~~ committee. This educational program

1 shall include course work encompassing the subject areas within the
2 scope of the license to practice dental hygiene in the state of
3 Washington;

4 (b) Has successfully completed an examination administered or
5 approved by the (~~dental hygiene examining~~) committee; and

6 (c) Has not engaged in unprofessional conduct or is not unable to
7 practice with reasonable skill and safety as a result of a physical or
8 mental impairment.

9 (2) Applications for licensure must comply with administrative
10 procedures, administrative requirements, and fees established according
11 to RCW 43.70.250 and 43.70.280.

12 NEW SECTION. **Sec. 33.** (1) The secretary shall issue a dental
13 assistant registration to an applicant who pays any applicable fees and
14 submits, on forms provided by the secretary, the applicant's name,
15 address, and other information as determined by the commission,
16 provided there are no grounds for denial of registration or issuance of
17 a conditional registration under this chapter or chapter 18.130 RCW.

18 (2) Provided there are no grounds for denial of certification or
19 issuance of a conditional certification under this chapter or chapter
20 18.130 RCW, the secretary shall issue a dental assistant certification
21 to an applicant who:

22 (a) Pays any applicable fees;

23 (b) Submits, on forms provided by the secretary, the applicant's
24 name, address, and other information as determined by the commission;

25 (c) Completes a dental assistant training program that has been
26 approved by the commission; and

27 (d) Passes a competency examination prepared or approved by and
28 administered under the direction of the commission.

29 (3) The commission may substitute some of the examination and
30 training requirements for certification with alternative standards for
31 an applicant who has practiced as a dental assistant for five of the
32 six years prior to the effective date of this section and is certified
33 as of the effective date of this section by a national dental assisting
34 board that is approved by the commission. This subsection (3) only
35 applies to those applicants who apply within one year of the effective
36 date of this section.

1 **Sec. 34.** RCW 18.29.045 and 1991 c 3 s 47 are each amended to read
2 as follows:

3 (1)(a) An applicant holding a valid ~~((license))~~ credential as a
4 denturist, dental hygienist, or dental assistant and currently engaged
5 in practice in another state may be granted a ~~((license))~~ credential
6 without examination required by this chapter, on the payment of any
7 required fees, if the ~~((secretary in consultation with the advisory))~~
8 appropriate commission, board, or committee determines that the other
9 state's ~~((licensing))~~ credentialing standards are substantively
10 equivalent to the standards in this state~~((:—PROVIDED, That the~~
11 ~~secretary in consultation with the advisory)).~~

12 (b) An applicant holding a valid license to practice dentistry and
13 currently engaged in practice in another state may be granted a license
14 without examination required by this chapter, on the payment of any
15 required fee, if the applicant is a graduate of a dental college,
16 school, or dental department of an institution approved by the
17 commission under section ... of this act.

18 (2) A commission, board, or committee may require ~~((the))~~ an
19 applicant under subsection (1) of this section to:

20 ~~((+1))~~ (a) File ~~((with the secretary))~~ documentation certifying
21 the applicant is ~~((licensed))~~ credentialed to practice in another
22 state; and

23 ~~((+2))~~ (b) Provide information as the ~~((secretary))~~ commission,
24 board, or committee deems necessary pertaining to the conditions and
25 criteria of the uniform disciplinary act, chapter 18.130 RCW, and to
26 demonstrate to the secretary a knowledge of Washington law pertaining
27 to the practice of ~~((dental hygiene))~~ the applicant's respective
28 profession.

29 NEW SECTION. **Sec. 35.** A credentialed person may renew a
30 credential obtained under the provisions of this chapter upon following
31 the requirements of the appropriate commission, board, or committee and
32 the administrative requirements of the secretary.

33 **Sec. 36.** RCW 18.32.185 and 1996 c 187 s 1 are each amended to read
34 as follows:

35 ~~((The commission may adopt rules under this section authorizing an~~
36 ~~inactive license status.))~~

1 (1) The department shall issue a temporary license to practice
2 dental hygiene without the examination required by this chapter to any
3 applicant who, as determined by the ((secretary)) committee:

4 (a) Holds a valid license in another state that allows the scope of
5 practice in subsection (3)(a) through (j) of this section;

6 (b) Is currently engaged in active practice in another state. For
7 the purposes of this section, "active practice" means five hundred
8 sixty hours of practice in the preceding twenty-four months;

9 (c) Files with the ((secretary)) committee documentation certifying
10 that the applicant:

11 (i) Has graduated from an accredited dental hygiene school approved
12 by the ((secretary)) committee;

13 (ii) Has successfully completed the dental hygiene national board
14 examination; and

15 (iii) Is licensed to practice in another state;

16 (d) Provides information as the ((secretary)) committee deems
17 necessary pertaining to the conditions and criteria of the uniform
18 disciplinary act, chapter 18.130 RCW;

19 (e) Demonstrates to the ((secretary)) committee a knowledge of
20 Washington state law pertaining to the practice of dental hygiene,
21 including the administration of legend drugs;

22 (f) Pays any required fees; and

23 (g) Meets requirements for AIDS education.

24 (2) The term of the temporary license issued under this section is
25 eighteen months (~~and it is nonrenewable~~). An applicant may renew the
26 temporary license for an additional eighteen months solely for the
27 purpose of completing the licensing requirements in restorative
28 procedures, otherwise the temporary license is nonrenewable.

29 (3) A person practicing with a temporary license granted under this
30 section has the authority to perform hygiene procedures that are
31 limited to:

32 (a) Oral inspection and measuring of periodontal pockets;

33 (b) Patient education in oral hygiene;

34 (c) Taking intra-oral and extra-oral radiographs;

35 (d) Applying topical preventive or prophylactic agents;

36 (e) Polishing and smoothing restorations;

37 (f) Oral prophylaxis and removal of deposits and stains from the
38 surface of the teeth;

- 1 (g) Recording health histories;
- 2 (h) Taking and recording blood pressure and vital signs;
- 3 (i) Performing subgingival and supragingival scaling; and
- 4 (j) Performing root planing.

5 (4)(a) A person practicing with a temporary license granted under
6 this section may not perform the following dental hygiene procedures
7 unless authorized in (b) or (c) of this subsection:

8 (i) Give injections of local anesthetic;

9 (ii) Place restorations into the cavity prepared by a licensed
10 dentist and afterwards carve, contour, and adjust contacts and
11 occlusion of the restoration;

12 (iii) Soft tissue curettage; or

13 (iv) Administer nitrous oxide/oxygen analgesia.

14 (b) A person licensed in another state who can demonstrate
15 substantively equivalent licensing standards in the administration of
16 local anesthetic may receive a temporary endorsement to administer
17 local anesthesia.

18 (c) A person licensed in another state who can demonstrate
19 substantively equivalent licensing standards in restorative procedures
20 may receive a temporary endorsement for restorative procedures.

21 **Sec. 39.** RCW 18.29.200 and 1993 c 323 s 3 are each amended to read
22 as follows:

23 A person granted a temporary license to practice dental hygiene
24 under this chapter who does not meet the requirements for substantively
25 equivalent licensing standards in restorative or local anesthetic must
26 submit proof of completion of approved education in these procedures
27 before being eligible to take the dental hygiene examination.

28 **Sec. 40.** RCW 18.32.195 and 1994 sp.s. c 9 s 218 are each amended
29 to read as follows:

30 The commission may, without examination, issue a license to
31 practice dentistry to (~~persons~~) any person who possesses the
32 qualifications set forth in this section.

33 (1) The commission may, upon written request of the dean of the
34 school of dentistry of the University of Washington, issue a license to
35 practice dentistry in this state to (~~persons who have~~) any person who
36 has been licensed or otherwise authorized to practice dentistry in

1 another state or country and who ~~((have))~~ has been accepted for
2 employment by the school of dentistry as full-time faculty members.
3 For purposes of this subsection, this means teaching members of the
4 faculty of the school of dentistry of the University of Washington who
5 are so employed on a one hundred percent of work time basis. ~~((Such))~~
6 The license shall permit the ~~((holder thereof))~~ person to practice
7 dentistry within the confines of the university facilities for a period
8 of one year while he or she is so employed as a full-time faculty
9 member by the school of dentistry of the University of Washington.
10 ~~((It))~~ The license shall terminate whenever the ~~((holder ceases to be~~
11 ~~such))~~ person is no longer a full-time faculty member. ~~((Such))~~ The
12 license shall permit the ~~((holder thereof))~~ person to practice
13 dentistry only in connection with his or her duties in employment with
14 the school of dentistry of the University of Washington. This
15 limitation shall be stated on the license.

16 (2) The commission may, upon written request of the dean of the
17 school of dentistry of the University of Washington, issue a limited
18 license to practice dentistry in this state to university residents in
19 postgraduate dental education. The license shall permit the resident
20 dentist to provide dental care only in connection with his or her
21 duties as a university resident.

22 (3) The commission may condition the granting of a license under
23 this section with terms the commission deems appropriate. ~~((All~~
24 ~~persons))~~ Any person licensed under this section shall be subject to
25 the jurisdiction of the commission to the same extent as other
26 ~~((members of the dental profession))~~ licensed dentists, in accordance
27 with this chapter, and in addition the ~~((licensee))~~ person may be
28 disciplined by the commission after a hearing has been held in
29 accordance with the provisions set forth in this chapter, and
30 determination by the commission that ~~((such licensee))~~ the person has
31 violated any of the restrictions set forth in this section.

32 (4) ~~((Persons))~~ Any person applying for ~~((licensure pursuant to))~~
33 a license under this section shall pay the application fee determined
34 by the secretary and, in the event the license applied for is issued,
35 a license fee at the rate provided for licenses generally. After
36 review by the commission, licenses issued under this section may be
37 renewed annually if the ~~((licensee))~~ licensed person continues to be
38 employed as a full-time faculty member of the school of dentistry of

1 the University of Washington, or a university resident in postgraduate
2 dental education, and otherwise meets the requirements of the
3 provisions and conditions deemed appropriate by the commission. Any
4 person who obtains a license pursuant to this section may, without an
5 additional application fee, apply for licensure under this chapter, in
6 which case the applicant shall be subject to examination and the other
7 requirements of this chapter.

8 **UNPROFESSIONAL CONDUCT**

9 **Sec. 41.** RCW 18.32.530 and 1989 c 202 s 26 are each amended to
10 read as follows:

11 (1) In addition to those acts defined in chapter 18.130 RCW, the
12 term "unprofessional conduct" as used in RCW 18.32.530 through
13 18.32.755 (as recodified by this act) includes:

14 (a) Gross, willful, or continued overcharging for professional
15 services;

16 (b) Abrogating the copayment provisions of a contract by accepting
17 the payment received from a third party payer as full payment; and

18 (c) Failing to maintain any office or equipment used in the
19 licensee's practice in a thoroughly clean and sanitary condition.

20 (2) A violation of subsection (1) of this section or of RCW
21 18.32.530 through 18.32.755 (as recodified by this act) is subject to
22 the provisions of chapter 18.130 RCW.

23 **Sec. 42.** RCW 18.32.665 and 1994 sp.s. c 9 s 223 are each amended
24 to read as follows:

25 (1) It ((shall be)) is unlawful for any person, firm, or
26 corporation to:

27 (a) Publish, directly or indirectly, or circulate any fraudulent,
28 false, or misleading statements within the state of Washington as to
29 the skill or method of practice of any ((person or operator)) licensed
30 dentist, denturist, or dental hygienist; ((or in any way to))

31 (b) Advertise in ((print)) any way any matter with a view of
32 deceiving the public, or in any way that will tend to deceive or
33 defraud the public; ((or to))

34 (c) Claim superiority over neighboring dental practitioners; ((or
35 to))

1 (d) Publish reports of cases or certificates of the same in any
2 public advertising media; (~~or to~~)

3 (e) Advertise as using any anesthetic, drug, formula, or
4 medicine(~~(r)~~) which is either falsely advertised or misnamed; or (~~to~~)

5 (f) Employ "capper" or "steerers" to obtain patronage(~~(i and)~~).

6 (2) Any person committing any offense against any of the provisions
7 of this section shall, upon conviction, be subjected to such penalties
8 as are provided in this chapter(~~(i PROVIDED, That)~~). However, any
9 person licensed under this chapter may announce credit, terms of
10 credit, or installment payments that may be made at periodical
11 intervals to apply on account of any dental service rendered.

12 (3) The commission may adopt such rules as are necessary to carry
13 out the intent of this section.

14 **Sec. 43.** RCW 18.32.755 and 2003 c 53 s 126 are each amended to
15 read as follows:

16 (1) Any advertisement or announcement for dental services must
17 include for each office location advertised the names of all persons
18 practicing dentistry at that office location.

19 (2) Any violation of this section is improper, unprofessional, and
20 dishonorable conduct, and grounds for injunction proceedings as
21 provided by RCW 18.130.190(4).

22 (3) A violation of this section is also a gross misdemeanor.

23 **Sec. 44.** RCW 18.32.675 and 2003 c 53 s 124 are each amended to
24 read as follows:

25 (1) No corporation shall practice dentistry or shall solicit
26 through itself, or its agent, officers, employees, directors or
27 trustees, dental patronage for any dentists or dental surgeon employed
28 by any corporation(~~(i PROVIDED, That)~~). However, nothing contained in
29 this chapter shall prohibit a corporation from employing a dentist or
30 dentists to render dental services to its employees(~~(i PROVIDED,)~~).
31 Further, (~~That~~) such dental services shall be rendered at no cost or
32 charge to the employees(~~(i nor shall it apply)~~). Nothing in this
33 section applies to corporations or associations in which the dental
34 services were originated and are being conducted upon a purely
35 charitable basis for the (~~worthy~~) poor, nor shall it apply to
36 corporations or associations furnishing information or clerical

1 services which can be furnished by persons not licensed to practice
2 dentistry, to any person lawfully engaged in the practice of dentistry,
3 when such dentist assumes full responsibility for such information and
4 services.

5 (2) Any corporation violating this section is guilty of a gross
6 misdemeanor, and each day that this chapter is violated shall be
7 considered a separate offense.

8 **Sec. 45.** RCW 18.32.745 and 2003 c 53 s 125 are each amended to
9 read as follows:

10 (1) No manager, proprietor, partnership, or association owning,
11 operating, or controlling any room, office, or dental parlors, where
12 dental work is done, provided, or contracted for, shall employ or
13 retain any unlicensed person or dentist as an operator; nor shall fail,
14 within ten days after demand made by the secretary of health or the
15 commission in writing sent by certified mail, addressed to any such
16 manager, proprietor, partnership, or association at the room, office,
17 or dental parlor, to furnish the secretary of health or the commission
18 with the names and addresses of all persons practicing or assisting in
19 the practice of dentistry in his or her place of business or under his
20 or her control, together with a sworn statement showing by what license
21 or authority the persons are practicing dentistry.

22 (2) The sworn statement shall not be used as evidence in any
23 subsequent court proceedings, except in a prosecution for perjury
24 connected with its execution.

25 (3) Any violation of this section is improper, unprofessional, and
26 dishonorable conduct, and grounds for injunction proceedings as
27 provided by this chapter.

28 (4)(a) Except as provided in (b) of this subsection, a violation of
29 this section is also a gross misdemeanor.

30 (b) The failure to furnish the information as may be requested in
31 accordance with this section is a misdemeanor.

32 **Sec. 46.** RCW 18.32.735 and 1935 c 112 s 28 are each amended to
33 read as follows:

34 Any licensed dentist who shall permit any dental hygienist or
35 dental assistant operating under his or her supervision to perform any

1 operation required to be performed by a dentist under the provisions of
2 this chapter shall be guilty of a misdemeanor.

3 **Sec. 47.** RCW 18.30.020 and 2002 c 160 s 2 are each amended to read
4 as follows:

5 (1) Before making and fitting a denture or performing any dental
6 hygiene services, a denturist or dental hygienist shall examine the
7 patient's oral cavity.

8 (a) If the examination gives the denturist or dental hygienist
9 reasonable cause to believe that there is an abnormality or disease
10 process that requires immediate medical or dental treatment, the
11 denturist or dental hygienist shall immediately stop treatment and
12 refer the patient to a dentist or physician. In such cases, the
13 denturist or dental hygienist shall take no further action (~~to~~
14 ~~manufacture or place a denture~~) until the patient has been examined by
15 a dentist or physician and the dentist or physician gives written
16 clearance that the denture or dental hygiene will pose no threat to the
17 patient's health. If the abnormality or disease process does not
18 require immediate medical or dental treatment, the dental hygienist or
19 denturist may continue treatment within the scope of practice.

20 (b) If the examination reveals the need for tissue or teeth
21 modification in order to (~~assure~~) ensure proper fit of a full or
22 partial denture, the denturist shall refer the patient to a dentist and
23 assure that the modification has been completed before taking an
24 impression for the completion of the denture.

25 (2) A denturist or dental hygienist who makes or places a denture
26 or performs any dental hygiene services in a manner not consistent with
27 this section is subject to the sanctions provided in chapter 18.130
28 RCW, the uniform disciplinary act.

29 (~~(3) A denturist must successfully complete special training in~~
30 ~~oral pathology prescribed by the board, whether as part of an approved~~
31 ~~associate degree program or equivalent training, and pass an~~
32 ~~examination prescribed by the board, which may be a part of the~~
33 ~~examination for licensure to become a licensed denturist.))~~

34 **Sec. 48.** RCW 18.32.390 and 1986 c 259 s 38 are each amended to
35 read as follows:

36 Any person who violates any of the provisions of the chapter for

1 which no specific penalty has been provided herein, shall be subject to
2 prosecution before any court of competent jurisdiction, and shall, upon
3 conviction, be guilty of a gross misdemeanor.

4 **MISCELLANEOUS PROVISIONS**

5 **Sec. 49.** RCW 18.32.226 and 2001 c 93 s 4 are each amended to read
6 as follows:

7 ~~((1)) For low-income, rural, and other at-risk populations and in~~
8 ~~coordination with local public health jurisdictions and local oral~~
9 ~~health coalitions(, a dental assistant working as of April 19, 2001,~~
10 ~~under the supervision of a licensed dentist may apply sealants and~~
11 ~~fluoride varnishes under the general supervision of a dentist in~~
12 ~~community based sealant programs carried out in schools without~~
13 ~~attending the department's school sealant endorsement program.~~

14 ~~(2) For low income, rural, and other at risk populations and in~~
15 ~~coordination with local public health jurisdictions and local oral~~
16 ~~health coalitions, dental assistants who are school sealant endorsed~~
17 ~~under RCW 43.70.650 may apply sealants and fluoride varnishes under the~~
18 ~~general supervision of a dentist):~~

19 (1) A dental assistant working as of April 19, 2001, under the
20 supervision of a licensed dentist may apply sealants and fluoride
21 varnishes under the general supervision of a dentist in community-based
22 sealant programs carried out in schools without attending the
23 department's school sealant endorsement program;

24 (2) A dental assistant who is school sealant endorsed under RCW
25 43.70.650 may apply sealants and fluoride varnishes under the general
26 supervision of a dentist in community-based sealant programs carried
27 out in schools;

28 (3) A dental hygienist licensed in this state as of April 19, 2001,
29 may assess for and apply sealants and apply fluoride varnishes in
30 community-based sealant programs carried out in schools without
31 attending the department's school sealant endorsement program; or

32 (4) A dental hygienist who is school sealant endorsed under RCW
33 43.70.650 may assess for and apply sealants and fluoride varnishes in
34 community-based sealant programs carried out in schools.

1 **Sec. 50.** RCW 18.32.534 and 1999 c 179 s 1 are each amended to read
2 as follows:

3 (1) To implement an impaired dentist program as authorized by RCW
4 18.130.175, the commission shall enter into a contract with a voluntary
5 substance abuse monitoring program. The impaired dentist program may
6 include any or all of the following:

7 (a) Contracting with providers of treatment programs;

8 (b) Receiving and evaluating reports of suspected impairment from
9 any source;

10 (c) Intervening in cases of verified impairment;

11 (d) Referring impaired dentists to treatment programs;

12 (e) Monitoring the treatment and rehabilitation of impaired
13 dentists including those ordered by the commission;

14 (f) Providing education, prevention of impairment, posttreatment
15 monitoring, and support of rehabilitated impaired dentists; and

16 (g) Performing other related activities as determined by the
17 commission.

18 (2) A contract entered into under subsection (1) of this section
19 shall be financed by a surcharge of up to twenty-five dollars on each
20 license issuance or renewal to be collected by the department of health
21 from every dentist licensed under this chapter (~~(18.32-RCW)~~). These
22 moneys shall be placed in the health professions account to be used
23 solely for the implementation of the impaired dentist program.

24 **Sec. 51.** RCW 18.32.695 and 1987 c 252 s 1 are each amended to read
25 as follows:

26 (~~Every~~) A dentist or denturist must mark every complete upper and
27 lower denture and removable dental prosthesis fabricated by a dentist
28 (~~(licensed under this chapter)~~) or denturist, or fabricated pursuant to
29 the dentist's or denturist's work order or under the dentist's or
30 denturist's direction or supervision, (~~(shall be marked)~~) with the name
31 of the patient for whom the prosthesis is intended. The markings shall
32 be done during fabrication and shall be permanent, legible, and
33 cosmetically acceptable. The exact location of the markings and the
34 methods used to apply or implant them shall be determined by the
35 dentist, denturist, or dental laboratory fabricating the prosthesis.
36 If, in the professional judgment of the dentist, denturist, or dental

1 laboratory, this identification is not practical, identification shall
2 be provided as follows:

3 (1) The initials of the patient may be shown alone, if use of the
4 name of the patient is impracticable; or

5 (2) The identification marks may be omitted in their entirety if
6 none of the forms of identification specified in subsection (1) of this
7 section is practicable (~~(or)~~), clinically safe, or the patient
8 declines.

9 **Sec. 52.** RCW 18.32.705 and 1987 c 252 s 2 are each amended to read
10 as follows:

11 Any removable prosthesis in existence before July 26, 1987, that
12 was not marked in accordance with RCW 18.32.695 (as recodified by this
13 act) at the time of its fabrication, shall be so marked at the time of
14 any subsequent rebasing.

15 **Sec. 53.** RCW 18.32.715 and 1987 c 252 s 4 are each amended to read
16 as follows:

17 Failure of any dentist or denturist to comply with RCW 18.32.695
18 and 18.32.705 (as recodified by this act) is a violation for which the
19 dentist or denturist may be subject to proceedings if the dentist or
20 denturist is charged with the violation within two years of initial
21 insertion of the dental prosthetic device.

22 **Sec. 54.** RCW 18.30.150 and 1995 c 1 s 16 are each amended to read
23 as follows:

24 Notwithstanding any other provision of state law, a licensed
25 denturist may enter into a partnership or other business association
26 with a dentist, provided that such association does not impede the
27 independent professional judgment of either party.

28 REFERENCE CORRECTIONS

29 **Sec. 55.** RCW 18.120.020 and 2001 c 251 s 26 are each amended to
30 read as follows:

31 The definitions in this section apply throughout this chapter
32 unless the context clearly requires otherwise.

1 (1) "Applicant group" includes any health professional group or
2 organization, any individual, or any other interested party which
3 proposes that any health professional group not presently regulated be
4 regulated or which proposes to substantially increase the scope of
5 practice of the profession.

6 (2) "Certificate" and "certification" mean a voluntary process by
7 which a statutory regulatory entity grants recognition to an individual
8 who (a) has met certain prerequisite qualifications specified by that
9 regulatory entity, and (b) may assume or use "certified" in the title
10 or designation to perform prescribed health professional tasks.

11 (3) "Grandfather clause" means a provision in a regulatory statute
12 applicable to practitioners actively engaged in the regulated health
13 profession prior to the effective date of the regulatory statute which
14 exempts the practitioners from meeting the prerequisite qualifications
15 set forth in the regulatory statute to perform prescribed occupational
16 tasks.

17 (4) "Health professions" means and includes the following health
18 and health-related licensed or regulated professions and occupations:
19 Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic
20 under chapter 18.25 RCW; dental assistants under chapter 18.-- RCW
21 (created in section 60 of this act); dental hygiene under chapter
22 ((18.29)) 18.-- RCW (created in section 60 of this act); dentistry
23 under chapter ((18.32)) 18.-- RCW (created in section 60 of this act);
24 denturism under chapter ((18.30)) 18.-- RCW (created in section 60 of
25 this act); dispensing opticians under chapter 18.34 RCW; hearing
26 instruments under chapter 18.35 RCW; naturopaths under chapter 18.36A
27 RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery
28 under chapter 18.50 RCW; nursing home administration under chapter
29 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ocularists
30 under chapter 18.55 RCW; osteopathic medicine and surgery under
31 chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A
32 RCW; medicine under chapters 18.71 and 18.71A RCW; emergency medicine
33 under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW;
34 practical nurses under chapter 18.79 RCW; psychologists under chapter
35 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational
36 therapists licensed under chapter 18.59 RCW; respiratory care
37 practitioners licensed under chapter 18.89 RCW; veterinarians and
38 veterinary technicians under chapter 18.92 RCW; health care assistants

1 under chapter 18.135 RCW; massage practitioners under chapter 18.108
2 RCW; acupuncturists licensed under chapter 18.06 RCW; persons
3 registered under chapter 18.19 RCW; persons licensed as mental health
4 counselors, marriage and family therapists, and social workers under
5 chapter 18.225 RCW; dietitians and nutritionists certified by chapter
6 18.138 RCW; radiologic technicians under chapter 18.84 RCW; and nursing
7 assistants registered or certified under chapter 18.88A RCW.

8 (5) "Inspection" means the periodic examination of practitioners by
9 a state agency in order to ascertain whether the practitioners'
10 occupation is being carried out in a fashion consistent with the public
11 health, safety, and welfare.

12 (6) "Legislative committees of reference" means the standing
13 legislative committees designated by the respective rules committees of
14 the senate and house of representatives to consider proposed
15 legislation to regulate health professions not previously regulated.

16 (7) "License," "licensing," and "licensure" mean permission to
17 engage in a health profession which would otherwise be unlawful in the
18 state in the absence of the permission. A license is granted to those
19 individuals who meet prerequisite qualifications to perform prescribed
20 health professional tasks and for the use of a particular title.

21 (8) "Professional license" means an individual, nontransferable
22 authorization to carry on a health activity based on qualifications
23 which include: (a) Graduation from an accredited or approved program,
24 and (b) acceptable performance on a qualifying examination or series of
25 examinations.

26 (9) "Practitioner" means an individual who (a) has achieved
27 knowledge and skill by practice, and (b) is actively engaged in a
28 specified health profession.

29 (10) "Public member" means an individual who is not, and never was,
30 a member of the health profession being regulated or the spouse of a
31 member, or an individual who does not have and never has had a material
32 financial interest in either the rendering of the health professional
33 service being regulated or an activity directly related to the
34 profession being regulated.

35 (11) "Registration" means the formal notification which, prior to
36 rendering services, a practitioner shall submit to a state agency
37 setting forth the name and address of the practitioner; the location,

1 nature and operation of the health activity to be practiced; and, if
2 required by the regulatory entity, a description of the service to be
3 provided.

4 (12) "Regulatory entity" means any board, commission, agency,
5 division, or other unit or subunit of state government which regulates
6 one or more professions, occupations, industries, businesses, or other
7 endeavors in this state.

8 (13) "State agency" includes every state office, department, board,
9 commission, regulatory entity, and agency of the state, and, where
10 provided by law, programs and activities involving less than the full
11 responsibility of a state agency.

12 **Sec. 56.** RCW 18.130.040 and 2003 c 275 s 2 and 2003 c 258 s 7 are
13 each reenacted and amended to read as follows:

14 (1) This chapter applies only to the secretary and the boards and
15 commissions having jurisdiction in relation to the professions licensed
16 under the chapters specified in this section. This chapter does not
17 apply to any business or profession not licensed under the chapters
18 specified in this section.

19 (2)(a) The secretary has authority under this chapter in relation
20 to the following professions:

21 (i) Dispensing opticians licensed and designated apprentices under
22 chapter 18.34 RCW;

23 (ii) Naturopaths licensed under chapter 18.36A RCW;

24 (iii) Midwives licensed under chapter 18.50 RCW;

25 (iv) Ocularists licensed under chapter 18.55 RCW;

26 (v) Massage operators and businesses licensed under chapter 18.108
27 RCW;

28 (~~(vi) ((Dental hygienists licensed under chapter 18.29 RCW;~~

29 ~~(vii))~~ Acupuncturists licensed under chapter 18.06 RCW;

30 ~~((~~viii~~))~~ (vii) Radiologic technologists certified and X-ray
31 technicians registered under chapter 18.84 RCW;

32 ~~((~~ix~~))~~ (viii) Respiratory care practitioners licensed under
33 chapter 18.89 RCW;

34 ~~((~~x~~))~~ (ix) Persons registered under chapter 18.19 RCW;

35 ~~((~~xi~~))~~ (x) Persons licensed as mental health counselors, marriage
36 and family therapists, and social workers under chapter 18.225 RCW;

1 (~~(xii)~~) (xi) Persons registered as nursing pool operators under
2 chapter 18.52C RCW;
3 (~~(xiii)~~) (xii) Nursing assistants registered or certified under
4 chapter 18.88A RCW;
5 (~~(xiv)~~) (xiii) Health care assistants certified under chapter
6 18.135 RCW;
7 (~~(xv)~~) (xiv) Dietitians and nutritionists certified under chapter
8 18.138 RCW;
9 (~~(xvi)~~) (xv) Chemical dependency professionals certified under
10 chapter 18.205 RCW;
11 (~~(xvii)~~) (xvi) Sex offender treatment providers certified under
12 chapter 18.155 RCW;
13 (~~(xviii)~~) (xvii) Persons licensed and certified under chapter
14 18.73 RCW or RCW 18.71.205;
15 (~~(xix)~~) (xviii) Denturists licensed under chapter 18.30 RCW;
16 (~~(xx)~~) (xix) Orthotists and prosthetists licensed under chapter
17 18.200 RCW;
18 (~~(xxi)~~) (xx) Surgical technologists registered under chapter
19 18.215 RCW; and
20 (~~(xxii)~~) (xxi) Recreational therapists.
21 (b) The boards and commissions having authority under this chapter
22 are as follows:
23 (i) The podiatric medical board as established in chapter 18.22
24 RCW;
25 (ii) The chiropractic quality assurance commission as established
26 in chapter 18.25 RCW;
27 (iii) The dental quality assurance commission and the committee on
28 dental hygienist practices as established in chapter (~~(18.32)~~) 18.--
29 RCW (created in section 60 of this act);
30 (iv) The board of hearing and speech as established in chapter
31 18.35 RCW;
32 (v) The board of examiners for nursing home administrators as
33 established in chapter 18.52 RCW;
34 (vi) The optometry board as established in chapter 18.54 RCW
35 governing licenses issued under chapter 18.53 RCW;
36 (vii) The board of osteopathic medicine and surgery as established
37 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
38 18.57A RCW;

1 (viii) The board of pharmacy as established in chapter 18.64 RCW
2 governing licenses issued under chapters 18.64 and 18.64A RCW;

3 (ix) The medical quality assurance commission as established in
4 chapter 18.71 RCW governing licenses and registrations issued under
5 chapters 18.71 and 18.71A RCW;

6 (x) The board of physical therapy as established in chapter 18.74
7 RCW;

8 (xi) The board of occupational therapy practice as established in
9 chapter 18.59 RCW;

10 (xii) The nursing care quality assurance commission as established
11 in chapter 18.79 RCW governing licenses and registrations issued under
12 that chapter;

13 (xiii) The examining board of psychology and its disciplinary
14 committee as established in chapter 18.83 RCW; and

15 (xiv) The veterinary board of governors as established in chapter
16 18.92 RCW.

17 (3) In addition to the authority to discipline license holders, the
18 disciplining authority has the authority to grant or deny licenses
19 based on the conditions and criteria established in this chapter and
20 the chapters specified in subsection (2) of this section. This chapter
21 also governs any investigation, hearing, or proceeding relating to
22 denial of licensure or issuance of a license conditioned on the
23 applicant's compliance with an order entered pursuant to RCW 18.130.160
24 by the disciplining authority.

25 (4) All disciplining authorities shall adopt procedures to ensure
26 substantially consistent application of this chapter, the Uniform
27 Disciplinary Act, among the disciplining authorities listed in
28 subsection (2) of this section.

29 **Sec. 57.** RCW 43.70.650 and 2001 c 93 s 2 are each amended to read
30 as follows:

31 The secretary is authorized to create a school sealant endorsement
32 program for dental hygienists and dental assistants. The secretary of
33 health, in consultation with the Washington state dental quality
34 assurance commission and the (~~dental hygiene examining committee~~)
35 Washington state committee on dental hygienist practices, shall adopt
36 rules to implement this section.

1 (1) A dental hygienist licensed in this state after April 19, 2001,
2 is eligible to apply for endorsement by the department of health as a
3 school sealant dental hygienist upon completion of the Washington state
4 school sealant endorsement program. While otherwise authorized to act,
5 currently licensed hygienists may still elect to apply for the
6 endorsement.

7 (2) A dental assistant employed after April 19, 2001, by a dentist
8 licensed in this state, who has worked under dental supervision for at
9 least two hundred hours, is eligible to apply for endorsement by the
10 department of health as a school sealant dental assistant upon
11 completion of the Washington state school sealant endorsement program.
12 While otherwise authorized to act, currently employed dental assistants
13 may still elect to apply for the endorsement.

14 (3) The department may impose a fee for implementation of this
15 section.

16 (4) The secretary shall provide a report to the legislature by
17 December 1, 2005, evaluating the outcome of chapter 93, Laws of 2001.

18 **Sec. 58.** RCW 69.41.010 and 2003 c 257 s 2 and 2003 c 140 s 11 are
19 each reenacted and amended to read as follows:

20 As used in this chapter, the following terms have the meanings
21 indicated unless the context clearly requires otherwise:

22 (1) "Administer" means the direct application of a legend drug
23 whether by injection, inhalation, ingestion, or any other means, to the
24 body of a patient or research subject by:

25 (a) A practitioner; or

26 (b) The patient or research subject at the direction of the
27 practitioner.

28 (2) "Community-based care settings" include: Community residential
29 programs for the developmentally disabled, certified by the department
30 of social and health services under chapter 71A.12 RCW; adult family
31 homes licensed under chapter 70.128 RCW; and boarding homes licensed
32 under chapter 18.20 RCW. Community-based care settings do not include
33 acute care or skilled nursing facilities.

34 (3) "Deliver" or "delivery" means the actual, constructive, or
35 attempted transfer from one person to another of a legend drug, whether
36 or not there is an agency relationship.

37 (4) "Department" means the department of health.

1 (5) "Dispense" means the interpretation of a prescription or order
2 for a legend drug and, pursuant to that prescription or order, the
3 proper selection, measuring, compounding, labeling, or packaging
4 necessary to prepare that prescription or order for delivery.

5 (6) "Dispenser" means a practitioner who dispenses.

6 (7) "Distribute" means to deliver other than by administering or
7 dispensing a legend drug.

8 (8) "Distributor" means a person who distributes.

9 (9) "Drug" means:

10 (a) Substances recognized as drugs in the official United States
11 pharmacopoeia, official homeopathic pharmacopoeia of the United States,
12 or official national formulary, or any supplement to any of them;

13 (b) Substances intended for use in the diagnosis, cure, mitigation,
14 treatment, or prevention of disease in man or animals;

15 (c) Substances (other than food, minerals or vitamins) intended to
16 affect the structure or any function of the body of man or animals; and

17 (d) Substances intended for use as a component of any article
18 specified in (a), (b), or (c) of this subsection. It does not include
19 devices or their components, parts, or accessories.

20 (10) "Electronic communication of prescription information" means
21 the communication of prescription information by computer, or the
22 transmission of an exact visual image of a prescription by facsimile,
23 or other electronic means for original prescription information or
24 prescription refill information for a legend drug between an authorized
25 practitioner and a pharmacy or the transfer of prescription information
26 for a legend drug from one pharmacy to another pharmacy.

27 (11) "In-home care settings" include an individual's place of
28 temporary and permanent residence, but does not include acute care or
29 skilled nursing facilities, and does not include community-based care
30 settings.

31 (12) "Legend drugs" means any drugs which are required by state law
32 or regulation of the state board of pharmacy to be dispensed on
33 prescription only or are restricted to use by practitioners only.

34 (13) "Legible prescription" means a prescription or medication
35 order issued by a practitioner that is capable of being read and
36 understood by the pharmacist filling the prescription or the nurse or
37 other practitioner implementing the medication order.

1 (14) "Medication assistance" means assistance rendered by a
2 nonpractitioner to an individual residing in a community-based care
3 setting or in-home care setting to facilitate the individual's self-
4 administration of a legend drug or controlled substance. It includes
5 reminding or coaching the individual, handing the medication container
6 to the individual, opening the individual's medication container, using
7 an enabler, or placing the medication in the individual's hand, and
8 such other means of medication assistance as defined by rule adopted by
9 the department. A nonpractitioner may help in the preparation of
10 legend drugs or controlled substances for self-administration where a
11 practitioner has determined and communicated orally or by written
12 direction that such medication preparation assistance is necessary and
13 appropriate. Medication assistance shall not include assistance with
14 intravenous medications or injectable medications, except prefilled
15 insulin syringes.

16 (15) "Person" means individual, corporation, government or
17 governmental subdivision or agency, business trust, estate, trust,
18 partnership or association, or any other legal entity.

19 (16) "Practitioner" means:

20 (a) A physician under chapter 18.71 RCW, an osteopathic physician
21 or an osteopathic physician and surgeon under chapter 18.57 RCW, a
22 dentist under chapter ~~((18.32))~~ 18.-- RCW (created in section 60 of
23 this act), a podiatric physician and surgeon under chapter 18.22 RCW,
24 a veterinarian under chapter 18.92 RCW, a registered nurse, advanced
25 registered nurse practitioner, or licensed practical nurse under
26 chapter 18.79 RCW, an optometrist under chapter 18.53 RCW who is
27 certified by the optometry board under RCW 18.53.010, an osteopathic
28 physician assistant under chapter 18.57A RCW, a physician assistant
29 under chapter 18.71A RCW, a naturopath licensed under chapter 18.36A
30 RCW, a pharmacist under chapter 18.64 RCW, or ~~((, when acting under the~~
31 ~~required supervision of a dentist licensed under chapter 18.32 RCW, a~~
32 ~~dental hygienist licensed under chapter 18.29 RCW))~~ a dental hygienist
33 licensed under chapter 18.-- RCW (created in section 60 of this act)
34 acting under the required supervision of a dentist licensed under
35 chapter 18.-- RCW (created in section 60 of this act);

36 (b) A pharmacy, hospital, or other institution licensed,
37 registered, or otherwise permitted to distribute, dispense, conduct

1 research with respect to, or to administer a legend drug in the course
2 of professional practice or research in this state; and

3 (c) A physician licensed to practice medicine and surgery or a
4 physician licensed to practice osteopathic medicine and surgery in any
5 state, or province of Canada, which shares a common border with the
6 state of Washington.

7 (17) "Secretary" means the secretary of health or the secretary's
8 designee.

9 **Sec. 59.** RCW 69.41.030 and 2003 c 142 s 3 and 2003 c 53 s 323 are
10 each reenacted and amended to read as follows:

11 (1) It shall be unlawful for any person to sell, deliver, or
12 possess any legend drug except upon the order or prescription of a
13 physician under chapter 18.71 RCW, an osteopathic physician and surgeon
14 under chapter 18.57 RCW, an optometrist licensed under chapter 18.53
15 RCW who is certified by the optometry board under RCW 18.53.010, a
16 dentist under chapter ((18.32)) 18.-- RCW (created in section 60 of
17 this act), a podiatric physician and surgeon under chapter 18.22 RCW,
18 a veterinarian under chapter 18.92 RCW, a commissioned medical or
19 dental officer in the United States armed forces or public health
20 service in the discharge of his or her official duties, a duly licensed
21 physician or dentist employed by the veterans administration in the
22 discharge of his or her official duties, a registered nurse or advanced
23 registered nurse practitioner under chapter 18.79 RCW when authorized
24 by the nursing care quality assurance commission, an osteopathic
25 physician assistant under chapter 18.57A RCW when authorized by the
26 board of osteopathic medicine and surgery, a physician assistant under
27 chapter 18.71A RCW when authorized by the medical quality assurance
28 commission, a physician licensed to practice medicine and surgery or a
29 physician licensed to practice osteopathic medicine and surgery, a
30 dentist licensed to practice dentistry, a podiatric physician and
31 surgeon licensed to practice podiatric medicine and surgery, or a
32 veterinarian licensed to practice veterinary medicine, in any province
33 of Canada which shares a common border with the state of Washington or
34 in any state of the United States: PROVIDED, HOWEVER, That the above
35 provisions shall not apply to sale, delivery, or possession by drug
36 wholesalers or drug manufacturers, or their agents or employees, or to
37 any practitioner acting within the scope of his or her license, or to

1 a common or contract carrier or warehouseman, or any employee thereof,
2 whose possession of any legend drug is in the usual course of business
3 or employment: PROVIDED FURTHER, That nothing in this chapter or
4 chapter 18.64 RCW shall prevent a family planning clinic that is under
5 contract with the department of social and health services from
6 selling, delivering, possessing, and dispensing commercially
7 prepackaged oral contraceptives prescribed by authorized, licensed
8 health care practitioners.

9 (2)(a) A violation of this section involving the sale, delivery, or
10 possession with intent to sell or deliver is a class B felony
11 punishable according to chapter 9A.20 RCW.

12 (b) A violation of this section involving possession is a
13 misdemeanor.

14 NEW SECTION. **Sec. 60.** A new chapter is added to Title 18 RCW and
15 is named "Dental Practices." The following sections are codified or
16 recodified and added to the new chapter created in this section as
17 follows:

- 18 Section 1 of this act;
- 19 Section 2 of this act;
- 20 RCW 18.32.030;
- 21 RCW 18.32.0351;
- 22 Section 5 of this act;
- 23 RCW 18.32.655;
- 24 RCW 18.32.0363;
- 25 Section 8 of this act;
- 26 RCW 18.32.0358;
- 27 RCW 18.32.0361;
- 28 RCW 18.30.050;
- 29 RCW 18.30.065;
- 30 RCW 18.30.100;
- 31 Section 14 of this act;
- 32 Section 15 of this act;
- 33 RCW 18.29.120;
- 34 Section 17 of this act;
- 35 Section 18 of this act;
- 36 Section 19 of this act;
- 37 Section 20 of this act;

1 Section 21 of this act;
2 RCW 18.32.020;
3 RCW 18.29.050;
4 Section 24 of this act;
5 RCW 18.29.056;
6 Section 26 of this act;
7 Section 27 of this act;
8 RCW 18.32.039;
9 Section 29 of this act;
10 RCW 18.32.040;
11 RCW 18.30.090;
12 RCW 18.29.021;
13 Section 33 of this act;
14 RCW 18.29.045;
15 Section 35 of this act;
16 RCW 18.32.185;
17 RCW 18.32.190;
18 RCW 18.29.190;
19 RCW 18.29.200;
20 RCW 18.32.195;
21 RCW 18.32.530;
22 RCW 18.32.665;
23 RCW 18.32.755;
24 RCW 18.32.675;
25 RCW 18.32.745;
26 RCW 18.32.735;
27 RCW 18.30.020;
28 RCW 18.32.390;
29 RCW 18.32.226;
30 RCW 18.32.534;
31 RCW 18.32.695;
32 RCW 18.32.705;
33 RCW 18.32.715; and
34 RCW 18.30.150.

35 NEW SECTION. **Sec. 61.** The following acts or parts of acts are
36 each repealed:

- 1 (1) RCW 18.29.005 ("Surfaces of the teeth" defined) and 1969 c 47
2 s 6;
- 3 (2) RCW 18.29.011 (License required) and 1987 c 150 s 16;
- 4 (3) RCW 18.29.060 (License issuance--Display) and 1991 c 3 s 48,
5 1989 c 202 s 12, 1985 c 7 s 21, 1981 c 277 s 4, 1979 c 158 s 32, & 1923
6 c 16 s 31;
- 7 (4) RCW 18.29.071 (Renewals) and 1996 c 191 s 11, 1991 c 3 s 49, &
8 1989 c 202 s 2;
- 9 (5) RCW 18.29.076 (Application of uniform disciplinary act) and
10 1987 c 150 s 15 & 1986 c 259 s 31;
- 11 (6) RCW 18.29.100 (Violations--Penalty--Prosecutions) and 1991 c 3
12 s 50, 1979 c 158 s 34, & 1923 c 16 s 36;
- 13 (7) RCW 18.29.110 (Dental hygiene examining committee--Generally)
14 and 1991 c 3 s 51 & 1989 c 202 s 3;
- 15 (8) RCW 18.29.130 (Secretary's authority--Generally--Continuing
16 education) and 1991 c 3 s 53 & 1989 c 202 s 5;
- 17 (9) RCW 18.29.140 (Approval of educational programs) and 1991 c 3
18 s 54 & 1989 c 202 s 6;
- 19 (10) RCW 18.29.150 (Examinations) and 1991 c 3 s 55 & 1989 c 202 s
20 7;
- 21 (11) RCW 18.29.160 (Immunity) and 1991 c 3 s 56 & 1989 c 202 s 8;
- 22 (12) RCW 18.29.170 (Committee meetings--Quorum--Effect of vacancy)
23 and 1989 c 202 s 9;
- 24 (13) RCW 18.29.180 (Exemptions from chapter) and 1991 c 3 s 57 &
25 1989 c 202 s 10;
- 26 (14) RCW 18.29.210 (Rules) and 1993 c 323 s 4;
- 27 (15) RCW 18.29.220 (Community-based sealant programs in schools)
28 and 2001 c 93 s 3;
- 29 (16) RCW 18.29.900 (Construction--1923 c 16) and 1923 c 16 s 37;
- 30 (17) RCW 18.29.910 (Severability--1923 c 16) and 1923 c 16 s 38;
- 31 (18) RCW 18.29.915 (Captions not law--1989 c 202) and 1989 c 202 s
32 11;
- 33 (19) RCW 18.30.005 (Finding, intent) and 1995 c 1 s 1;
- 34 (20) RCW 18.30.010 (Definitions) and 2002 c 160 s 1 & 1995 c 1 s 2;
- 35 (21) RCW 18.30.030 (Licensing required) and 1995 c 1 s 4;
- 36 (22) RCW 18.30.040 (Exclusions from chapter) and 2002 c 160 s 3 &
37 1995 c 1 s 5;
- 38 (23) RCW 18.30.060 (Board--Officers, quorum) and 1995 c 1 s 7;

1 (24) RCW 18.30.120 (Requirements determined by secretary--License
2 content) and 1996 c 191 s 12 & 1995 c 1 s 13;
3 (25) RCW 18.30.130 (License renewal) and 1996 c 191 s 13, 1995 c
4 198 s 23, & 1995 c 1 s 14;
5 (26) RCW 18.30.135 (Discipline) and 1995 c 336 s 3;
6 (27) RCW 18.30.140 (Inactive licenses) and 2002 c 160 s 8, 1995 c
7 198 s 24, & 1995 c 1 s 15;
8 (28) RCW 18.30.900 (Short title--1995 c 1 (Initiative Measure No.
9 607)) and 1995 c 1 s 17;
10 (29) RCW 18.30.901 (Severability--1995 c 1 (Initiative Measure No.
11 607)) and 1995 c 1 s 26;
12 (30) RCW 18.32.002 (Findings--Purpose) and 1999 c 364 s 1 & 1994
13 sp.s. c 9 s 201;
14 (31) RCW 18.32.010 (Words defined) and 1994 sp.s. c 9 s 202, 1991
15 c 3 s 58, & 1935 c 112 s 1;
16 (32) RCW 18.32.0353 (Commission--Removal of member--Order of
17 removal--Vacancy) and 1994 sp.s. c 9 s 205;
18 (33) RCW 18.32.0355 (Commission--Qualifications of members) and
19 1994 sp.s. c 9 s 206;
20 (34) RCW 18.32.0357 (Commission--Duties and powers--Attorney
21 general to advise, represent) and 1999 c 364 s 2 & 1994 sp.s. c 9 s
22 207;
23 (35) RCW 18.32.0365 (Rules) and 1994 sp.s. c 9 s 210;
24 (36) RCW 18.32.050 (Compensation and reimbursement for
25 administering examination) and 1995 c 198 s 2, 1994 sp.s. c 9 s 212,
26 1984 c 287 s 30, 1979 c 38 s 3, 1975-'76 2nd ex.s. c 34 s 34, 1967 c
27 188 s 2, 1957 c 52 s 23, & 1953 c 93 s 3;
28 (37) RCW 18.32.091 (License required) and 1987 c 150 s 18;
29 (38) RCW 18.32.100 (Applications) and 1994 sp.s. c 9 s 213, 1991 c
30 3 s 62, 1989 c 202 s 18, 1957 c 52 s 28, 1953 c 93 s 4, 1951 c 130 s 2,
31 1941 c 92 s 2, & 1935 c 112 s 4;
32 (39) RCW 18.32.110 (Application fee) and 1996 c 191 s 14, 1991 c 3
33 s 63, 1989 c 202 s 19, 1985 c 7 s 23, 1975 1st ex.s. c 30 s 27, 1969 c
34 49 s 1, & 1957 c 52 s 29;
35 (40) RCW 18.32.160 (Licenses--Who shall sign) and 1994 sp.s. c 9 s
36 215, 1991 c 3 s 65, 1989 c 202 s 21, 1951 c 130 s 3, & 1935 c 112 s 17;
37 (41) RCW 18.32.170 (Duplicate licenses--Fee) and 1996 c 191 s 15,

1 1991 c 3 s 66, 1985 c 7 s 25, 1975 1st ex.s. c 30 s 29, & 1957 c 52 s
2 25;

3 (42) RCW 18.32.180 (License renewal) and 1999 c 364 s 3, 1996 c 191
4 s 16, 1994 sp.s. c 9 s 216, 1991 c 3 s 67, 1989 c 202 s 22, 1985 c 7 s
5 26, 1975 1st ex.s. c 30 s 30, 1969 c 49 s 3, 1951 c 130 s 4, & 1935 c
6 112 s 24;

7 (43) RCW 18.32.215 (Licensure without examination--Licensed in
8 another state) and 2003 c 57 s 2, 1994 sp.s. c 9 s 219, & 1989 c 202 s
9 30;

10 (44) RCW 18.32.220 (Certificate available for dentists going out-
11 of-state) and 1996 c 191 s 17, 1991 c 3 s 70, 1989 c 202 s 23, & 1935
12 c 112 s 14;

13 (45) RCW 18.32.533 (Unprofessional conduct--Abrogation of copayment
14 provisions) and 1985 c 202 s 1;

15 (46) RCW 18.32.640 (Rules--Administration of sedation and general
16 anesthesia) and 1994 sp.s. c 9 s 221, 1988 c 217 s 1, 1986 c 259 s 42,
17 & 1977 ex.s. c 5 s 14;

18 (47) RCW 18.32.685 (Prescriptions--Filled by druggists) and 1935 c
19 112 s 26;

20 (48) RCW 18.32.725 (Sanitary regulations) and 1935 c 112 s 27;

21 (49) RCW 18.32.900 (Severability--1935 c 112) and 1935 c 112 s 29;

22 (50) RCW 18.32.910 (Severability--1953 c 93) and 1953 c 93 s 9;

23 (51) RCW 18.32.915 (Severability--1977 ex.s. c 5) and 1977 ex.s. c
24 5 s 36; and

25 (52) RCW 18.32.916 (Severability--1979 c 38) and 1979 c 38 s 4.

26 NEW SECTION. **Sec. 62.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

30 NEW SECTION. **Sec. 63.** This act takes effect July 1, 2004.

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Appendix: F
Rebuttal Statements

REBUTTALS TO RECOMMENDATIONS

REBUTTALS FROM DENTISTS

Washington State Dental Association

1. Registration will impose an unjustified additional cost and regulatory bureaucracy upon a health care delivery system that is almost entirely a small business enterprise.

DOH has provided no evidence to substantiate any need to implement direct regulation of individual dental assistants by requiring registration. Nothing was presented by DOH that shows that the current system of regulation (oversight of the dentist's delegation of functions to assistants) has failed to protect the public. No cases were cited to the contrary and, according to the staff of the Dental Quality Assurance Commission and the investigation staff of the Department of Health, there have been no cases of harm to patients by dental assistants that have not been appropriately addressed by DQAC or DOH.

Under current law, dentists are held liable for actions of any unlicensed persons who are employed under their supervision. If harm occurs to a patient, it is the dentist who is appropriately held accountable for the standard of care. Registration of all unlicensed persons providing undefined "supportive services" as assistants will unnecessarily conflict with this core principle of the practice of the dentist as a primary care provider.

As justification for this recommendation, the department makes the statement that "The complexity of dental care has increased significantly in the last 10 years." DOH provides no evidence to clarify what it is about dental care that has increased significantly in complexity. If one compares the state's rules for delegation of functions to assistants from 1993 and 2003, nothing of significance has change. While dental science certainly is evolving, it remains the responsibility of the dentist to evaluate an assistant and determine which techniques or procedures are possible to delegate within the assistant's competency, the patient's best interests and the law. Registration will create increased costs to dentists (and their patients) and is not justified.

WSDA continues to support creation of a credentialing process that would allow the dentist to delegate certain expanded functions that are components of restorative and preventive procedures to currently unlicensed employees who have obtained qualifications that would be established by the state. It is clear that this can help in addressing the shortage of hygienists. WSDA does not, however, consider the creation of these functions to be a "scope of practice" as that term may be understood here. The requirement that only qualified assistants recognized by the state may perform these technical actions is reasonable to assure protection of the public. In all instances, however, none of these functions or actions can stand on its own as a specific procedure. They are all component parts of an operation under the control of the dentist. It is not necessary for all assistants qualified to perform one expanded function to perform all others, as the need will be highly variable in each practice.

2. DOH provides no supportive documentation for its claim that trained and qualified dental assistants cannot safely perform removal of supragingival calculus, and DOH does not reference any consideration of comments of current and former public health dentists who have practiced in tribal and military clinics that allow trained assistants to perform this function under supervision. According to the statement to DOH by Dr. Martin Lieberman, Dental Director of the Puget Sound Neighborhood Health Centers:

“The Indian Health Service has had a successful practice in place for thirty years where trained dental assistants are able to place restorations and remove calculus above the gumline. These are duties that require a greater level of skill hence more training and more supervision. As Dental Director of one of the nation’s largest community health center dental programs, I can assure you, these expanded duties would greatly improve access without compromising quality of care.”

The 2001 Dental Workforce Study demonstrates the need for additional preventive care help in the dental office. Nineteen percent of general dentists practice without any hygienist and nearly 40 percent reported having vacancies for hygienists. If 23 percent of the population has supragingival calculus, as the research cited by DOH states, that is a significant number of patients in Washington. If the dentist determines it is appropriate to do so and safe for the patient, an assistant could scale above the gum and create time for hygienists or dentists to perform more involved functions that are beyond the assistant’s qualifications. The net result will be increased access.

3. The expansion of unsupervised practice by dental hygienists to any setting creates too much risk for patient harm. Unsupervised practice will mean that a patient is treated without first being examined and diagnosed by a dentist and with no requirement that the patient will be seen by a dentist following services performed by a hygienist. The hygienist alone will decide what treatment is appropriate and whether the quality of care delivered meets the patient’s health needs. This lack of a qualified and comprehensive diagnostic process, required to determine correct and optimum treatment for the patient, presents far too much risk to the public. The educational preparation for hygienists, as defined through accreditation under the Commission on Dental Accreditation, does not envision dental hygienists practicing as primary care providers and diagnosticians. Only the dentist has the training and experience required to assure competency as a primary care provider for a patient’s oral health needs.

While DOH recommends that unsupervised hygienists not be allowed to administer nitrous oxide or legend drugs, DOH has made no such recommendation specifically prohibiting injection of local anesthetic. This function is currently only allowed to be performed under the close (direct) supervision of the dentist and should remain so.

WSDA agrees with DOH’s recommendation that the scope of practice for dental hygiene should not be expanded, as proposed in the Sunrise bill submitted by Rep. Cody.

4. WSDA opposes the supervision of assistants by hygienists, or denturists, as proposed by this DOH recommendation. As WSDA has explained, treatment by hygienists without supervision is in itself a risk to public health and safety; by extension, delegation by unsupervised hygienists to other, less-qualified assistants creates an even greater risk of harm. Under the current law, only a dentist may delegate to assistants and only then under close supervision (when the dentist is present in the office), as the state has determined that those procedures demand the supervision of a primary care provider.

Effectively, this proposal will create a chaotic and unacceptable standard of care and great potential for conflicting and confusing regulation of dental care. An assistant working for an unsupervised hygienist would be allowed to perform a function on one day that would only be allowed to be performed under the close supervision of a dentist on another day. This invites regulatory chaos and further erodes patient protection.

5. WSDA endorses fully this recommendation. Less than 30 percent of Washington hygienists provide restorative care assistance to dentists and of those that do, it is for less than nine hours monthly on average. The effect of this change will be to increase the hygienist workforce by allowing hygienists from other states to license by credential without taking expensive and often inaccessible courses to meet the restorative care qualification. Washington is the only state which requires restorative care qualifications for hygienist licensure. This does not prevent hygienists who wish to practice restorative care from doing so, but it will allow hygienists, who do not require this qualification, to license and practice those functions that are the essential core of their profession.

6. WSDA opposes the creation of a new independent board to regulate dental hygienists. It will increase the time and expense required to regulate practice issues that are all questions of dental care, not a separate health care delivery system. No other state, including Colorado which allows limited unsupervised dental hygiene practice, has an independent dental hygiene board. This will result in time-consuming and expensive regulatory conflicts with no understandable public benefit. This will fragment dental care and does not improve communications on regulatory issues, especially as the board recommended by DOH will include no dentists.

We also received 65 rebuttal letters from individual dentists. These are excerpts representing these rebuttals.

“Having been a hygienist before dental school, I can attest to the fact that the RDH does NOT know anywhere near what the schools allow them to believe upon graduation. . . Just as a nurse cannot administer medications without a doctor diagnosis, neither should a dental hygienist. Case in point: The hygienist employed by the clinic in which I work administered a carpule of 2 % lidocaine, 1:100 epi; mandibular block. The patient had a mild reaction to the anesthetic. The hygienist HAD NO IDEA what to do. In fact, when she left the patient alone for about 2 minutes to summon me, she then did not do anything I asked her to do in calming the patient, and only kept repeating, "Aspiration was negative"...I do know not all hygienists are this incompetent, but they do all, myself included, graduate believing they know much more than they really do. My first year in dental school was a huge kick in the teeth affirmation of this."

"I do not believe that expansion of the independent practice authority for dental hygienists is going to be the best solution for Washington residents and their dental health. The education of dental hygienists does not adequately prepare them for unsupervised practice in any setting. This will truly lead to significantly compromised care. I practice in an underserved area and I am certain that hygienists who wish to practice independently will not flow to these areas, especially those in eastern WA with a population of 10,000 or less. "

"I would like to address some concerns I have about the DOH sunrise review recommendations. I am a general dentist who has practiced in Washington State for almost thirty years. I currently employ a hygienist and three dental assistants in my private practice. Over the years, I have been involved in the clinical training of student dental assistants in my own office, at our two local technical colleges, and at several facilities staffed by volunteer dentist and student assistants. I understand the educational process and the necessary tutelage by the dentist in order to produce a competent assistant. As you know, a certification program is available to those assistants who wish to document their increasing proficiency.

First, I don't believe that registration of dental assistants is needed. It would not improve the training or add to the qualifications of the assistant. It would do nothing more than increase the cost of dental regulation and add useless bureaucracy. Dental assistants are trained to work closely with and under the direct control of the dentist. As unlicensed employees, the dentist remains responsible for their actions. He must determine their competency and delegate only when it is in the best interest of the patient and within the law. This system has served us well and there is no justification for changing it at this time.

Second, I believe that dental hygienists should remain as part of a dental team that is supervised by a dentist. It is the dentist who has the training to recognize and treat all diseases of the mouth. When this obvious principle is violated, our patients could be at risk for undiagnosed or misdiagnosed problems. In a hypothetical case, the prior existence of an independent hygiene practice might discourage a new "full service" dentist from locating in an underserved area. Dental care regulation is best served by continuing to restrict supervision of dental assistants to the dentist as the primary care provider, not denturists and hygienists. I also feel that the proposed independent Dental Hygiene Board, which includes no dentists, would serve no purpose except further fragmentation of the profession and the regulatory process.

Please consider carefully all these arguments before you try to enact legislation that is not supported by a majority of my colleagues in the profession."

"Unsupervised hygiene does nothing to alleviate the hygiene shortage and probably very little if anything to alter the rural dental shortage. Unsupervised hygiene would create extremely inefficient use of office space and extreme inconvenience for patients. Independent hygienists would have to set up offices with expensive dental equipment similar to a dentist's office. These overlapping costs will be passed on to the patients with no visible savings. What an inconvenience for the patient under this proposal-having your teeth cleaned in one office and then going to another office with the dentist for all the diagnostic and restorative work to be done. The Sunrise Report states that independent oriented hygienists would not want to set up offices in rural areas that have real dentist shortages and those few that might would want to be more highly compensated. It is hard to believe that since Washington State has the highest paid hygienists in the United States (\$43-50/hr plus benefits), that they would receive compensation higher than that amount in rural settings. Most likely they want to set up in urban areas where the most patients are located and where there is not any shortage of dentists."

" Adding radiographs to a hygienist's services is completely without merit. Since the hygienist is not allowed to diagnose, she/he would charge a fee for the radiographs, then the patient would have to pay a dentist to read the x-rays. This is much like in medicine, where the radiology technician and the radiologist charge separately, but, again, this is not the common

situation in dentistry, so the insurance process is not set up to handle it. Patient's fees would increase, there would be increased confusion for the patient and dental offices, again putting up barriers to treatment. . . The bill is not without merit, however, in that you have included a proposal to allow hygienists to have a license that does not allow restorative procedures. I am in favor of that, because it increases the choices available to hygienists and dentists. My hygienist moved here from Alaska, paid over \$3000 to take coursework and get her license to do restorative, and is willingly working in my office where she will be rarely, if ever, be called upon to provide these services. Most of the dentists and hygienists I know use this capability quite sparingly. If Janet had been allowed a limited license, she would be providing exactly the same services she is now, without that cost. . . "

" My wife has been a dental hygienist for 20 years and she and I discuss hygienist issues regularly. She, like the vast majority of dental hygienists, will only want to work in a dentist's office, not as an independent practitioner. There is no economic model that works for independent dental hygienist services that serves patients well. If patients are expected to go to two different offices, or write two different checks, merely to satisfy some desire on the part of the dental hygienist to be autonomous, this only increases barriers to dental care and does nothing to increase access."

"The Rationale for recommendation #3 talks about the history in Colorado with independent practice. Fewer than 1% of Colorado hygienists practice independently according to the sunrise report. Sweeping generalizations about a hygiene model that is avoided by 99% of Colorado hygienists are tenuous justification for extending such a model to Washington State. The final paragraph of this rationale states the desirability of removing "any regulatory barrier to increase access." I agree with this goal and more department focus should be on removing barriers. Independent hygiene practice is not such a barrier. There are hygiene vacancies in many offices. It is a function of inadequate numbers of hygienists, not whether they can practice independently or not.

The Department wisely recognizes this in recommendation #5 which is actually a proposal to do something meaningful to increase the numbers of hygienists who can practice in Washington State. More hygienists should be able to fill vacancies in dental offices and provide increased access to care within the dental delivery system." " The Rationale for recommendation #2 states that 75% of patients have both supra and subgingival calculus. That is not consistent with what I see in my office. Based on my observations and experience it is probably an exaggeration. Supragingival calculus can also be present in the absence of subgingival calculus. To try to justify refusal to permit supragingival scaling by saying that there might be subgingival calculus is not supportable. An assistant would be working under the close supervision of a dentist and the dentist would be responsible for verifying that there was no subgingival calculus or removing it if any were present. The dentist is ultimately responsible. That is why many dentists do not delegate all the functions that they legally could to assistants--if I'm ultimately responsible then I want to do the work myself."

Paragraph #13 states that in 1994 the Department of Health "recommended that assistants be allowed, under certain circumstances, to perform expanded functions, although it did not endorse a registration or certification program." Yet now the same Department of Health endorses registration of all assistants without any expansion in the functions they are allowed to perform. Why, if assistants could be recommended to perform expanded functions without registration in 1994 at no threat to the public, are they now such a threat to public health and

safety that they must be registered and not be allowed to perform any expanded duties? There has been no significant change to the duties that a dentist may delegate to an unlicensed person (assistant) according to the WAC since the 1994 recommendation. Why the sudden about face on the part of the Department of Health?"

"I am writing to oppose the "Sunrise" legislative proposal that would allow registration of all dental assistants and allow for the unsupervised practice of dental hygienists. You see, I was a dental hygienist before. After graduating from dental school, I realized that the scope of knowledge as a dental hygienist was very limited. As I was a dental hygienist before and now a dentist, I realized that for the benefit of patients, diagnosis must be done by dentists and dental hygienists should continue to work as part of the dental team in providing quality oral care for patients under the supervision of dentists. Please consider my opposition and do not pass the "Sunrise" proposal."

"I am writing to express my concerns over the proposed changes in the dental healthcare setting. I have been a practicing dentist for over 20 years and have practiced in various settings. I am very much opposed to allowing hygienists to practice independently. It has been my experience that they do not have adequate training! Some of the hygienists I have worked with through the years have been pretty scary in their "diagnostic" ability. They do not understand oral pathology, are not trained to read radiographs, and certainly do not pose the ability to make proper referrals."

Many people do not understand the differences in training between dental assistants and hygienists, or between dentists and hygienists. I have had many patients think that if the hygienist said they were having "no problems," that this was backed up by the necessary education to make this diagnosis. I am currently conducting working interviewing for hygienists for my office. Many of the hygienists that I have had the recent experience to observe are not even up to my standards for their current legal practice description. Here are a few examples:

- 1.) Missing gross areas of decay
- 2.) Leaving behind obvious deposits of calculus
- 3.) Improper probe readings (important in determining bone loss)
- 4.) Making improper treatment recommendations
- 5.) Not being able to recognize a periodontal abscess."

"We strongly **oppose** the sunrise legislation and have front-line experience that has caused us to form this position.

As general dentists and providers for several thousand Medicaid eligible kids we have patients in our practice who are also treated by independent hygienists in school based fluoride and sealant programs. We would like to share some grave concerns we have about increasing hygienists' independent duties.

- Patients and parents are confused. They don't understand what a RDH is and that an RDH provides only limited services.
- Hygienists will under diagnose or miss diagnose. Not intentionally but naively just because of a lack of adequate education in dental disease.
- Patients are caught in conflicts between dentists and independent hygienists when patients are treated by two providers (RDH and DDS) concurrently.

In our highly Medicaid eligible area, access to a dentist is not a problem. I believe this to be true in most areas around the state. Please don't use this as an excuse to expand hygiene duties without a dentist's supervision. The administrative nightmare of registering assistants and a separate board for hygiene is unpractical and counterproductive."

REBUTTALS FROM DENTAL ASSISTANTS

Washington State Dental Assistants Association

- Strongly support two-tiered registration and certification of dental assistants.
- Use the designation of “Expanded Function Dental Assistant” (EFDA) rather than “Certified Dental Assistant.” This would address DANB’s concerns with the use of the trademarked CDA.
- **Do not** confine expanded function status to only school-trained Certified Dental Assistants.
- We strongly support granting on-the-job-trained dental assistants EFDA status after passing an exam and showing proof of five years continuous employment.
- Use the DNAB examinations already in place and used by a number of states as the testing medium for EFDA certification
- Do not support diluting or reducing any of the expanded functions as they are now constituted in current WAC rules
- No allowed supervision of dental assistants by hygienists or denturists. Any supervision of dental assistants should remain with the doctors
- Do not support diagnosis by hygienists

REBUTTALS FROM DENTAL HYGIENISTS

Washington State Dental Hygienists’ Association

WSDHA supports replacing the Dental Hygiene Examining Committee with a Dental Hygiene Board. We agree that a Dental Hygiene Board would be more efficient and streamlined than the model proposed in the bill, while ensuring that dental hygiene scope of practice, standards of care, and examination matters are analyzed by dental hygienists.

WSDHA supports allowing dental hygienists with two years of practical clinical experience to work unsupervised in any setting. We agree that the current standard of two year’s experience has proven adequate to ensure patient safety.

While WSDHA supports the two-tiered registration/certification of dental assistants, we recognize that the sunrise recommendation of registration is an important first step in regulating the dental assisting profession.

WSDHA appreciates the sunrise panel's review of the restorative limited license issue. While we still believe that all hygienists licensed in Washington should have restorative education and training, WSDHA recognizes the sunrise panel's concern of potential barriers to licensure.

These are excerpts representing other dental hygienist rebuttals.

"I agree with most of the recommendations from the review committee included in the report. In particular:

1) **Unsupervised practice of Dental Hygiene in all settings:** I have been working without supervision in various public health and community health settings since 1985. The people who receive services personally from me and from other Dental Hygienists working in alternative practice settings have made a big impact on the lives of the people who we serve. Opening up unsupervised practice in all settings will greatly increase the public accessibility to preventive oral health services.

Local Anesthesia: Dental Hygienists need to be able to administer local anesthesia when working in unsupervised settings. There is little, if any danger, with the use of local anesthetics these days, especially if ones without vasoconstrictors are used. The lack of the ability to use local anesthetic causes undue and unnecessary discomfort for patients that need anesthesia for pain control during periodontal dental hygiene procedures.

2) **Supervision of Dental Assistants by Dental Hygienists:** This too will make a big impact on the productivity of Dental Hygienists, as it does for dentists working with Dental Assistants.

3) **Registration-Regulation of Dental Assistants:** Dental Assistants in our state have one of the widest scope of "hands on" procedures that they can perform. While this wide scope of procedures they can legally perform under the supervision of a dentists helps in the productivity of dental offices, it does put the public at risk of having work done by an assistant who does not have proper education and training. My mother was a dental assistant for 35 years, and I personally saw her and other assistants perform many procedures that they are not trained to perform, but many were illegal as well. This continues to happen and I receive complaints from the public on a regular basis regarding illegal procedures performed by dental assistants, especially the illegal practice of dental hygiene by non-licensed personnel.

4) **Creation of Dental Hygiene Board:** A Dental Hygiene Board is a necessary step toward the self regulation of the profession of Dental Hygiene. The current Dental Hygiene Examining Committee lacks the scope of responsibilities that are needed to regulate the profession."

"Unsupervised practice of dental hygienists should have minimum clock hours set, not just "two years of experience." **Administration of local anesthetic** should be allowed in the unsupervised practice settings with requirements. I recall a decade ago, a sunrise review panel found this would not increase the risk to the health and safety of the public. Dental hygienists already must pass a local anesthetic clinical licensing exam dentists do not."

“I am a dental hygienist who has been working in Washington since 1969 and I am totally opposed to the issues raised in this sunrise legislative proposal. The team of dentist, dental hygienist and dental assistant worked throughout the US since its inception. The patient has been treated better under this system than anywhere else in the world. No other form of dentistry works as well. Dental hygienists are well respected in the dental office for both their thoroughness and professionalism by the patients as well as other members of the dental team. The thought of breaking this cohesive unit up into autonomous groups makes no sense and must be the brainchild of some bureaucrat bound on controlling all aspects of our lives. Other attempts at this in states has been a waste of time. Colorado, as an example has had this legislation for years and yet access remains the same and hygienists working alone can be counted on one hand. Please don't allow this to go forward.”

“At the present time, a hygienist who has not had formal clinical restorative education is required to take an approximately two weeks State approved clinical restorative course before they can take the Dental Hygiene Western Regional Exam. These course are only offered at limited times and places. They are very costly. The course educational standards are very poor and thus provide no protection to the public for the licensed person performing restorative tasks. The Western Regional Licensing Exam does not even test for clinical competency, yet, hygienists are required to take these courses. Out-of-state hygienists can temporary practice for 18 months safely in the state. It seems absurd to restrict a hygienist from practicing after 18 months. Many hygienists are forced to leave the state when their temporary license expires. Some have taken the restorative courses and failed the exam requiring them to quit practicing until they could take the exam again. Many out-of-state educated hygienists will not even consider practicing in Washington because of these barriers. Very few (30%) hygienists actually perform SOME restorative procedures.”