BEFORE THE KANSAS COMMITTEE ON HEALTH AND HUMAN SERVICES

Testimony of the Kansas Dental Board in OPPOSITION to H.B. 2079

Thank you for the opportunity to testify on behalf of the Kansas Dental Board in opposition to H.B. 2079. My name is Randy Forbes. I am General Counsel for the Dental Board.

The Dental Board has carefully considered H.B. 2079 and opposes it for several reasons. Those reasons include the following:

1. There are potential complications to many of the procedures a Registered Dental Practitioner ("RDP") would be authorized to perform under general supervision (a dentist need not be present), which the RDP would not be qualified by training and experience to deal with. As examples:

a. The bill would authorize a RDP to extract primary teeth [New Section 2 (c)(14) – p. 3)]. It is very common for such teeth to fracture during extraction leaving an embedded tooth root. That tooth root must be surgically removed.

b. The bill would authorize a RDP to perform a pulpotomy on primary teeth (New Section (c) (22) and on permanent teeth [New Section (c)(16) – emergency palliative treatment for pain, which includes a pulpotomy]. A pulpotomy require drilling an opening in the tooth and extracting inflamed nerve and blood tissue in the pulp chamber. Often times the inflamed tissue extends down into the tooth root requiring its extraction by a procedure called a pulpectomy and a root canal, procedures a RDP are not authorized or trained to perform. Often, whether a pulpectomy is necessary cannot be determined until the tooth has been opened.

c. The bill would authorize a RDP to perform crown preparation and placement [New Section (c)(19), (20) and (21)]. Crown preparation involves the permanent removal of large amounts of tooth structure. When over-prepared, the dental pulp can be injured resulting in the necessity for root canal therapy. When underprepared there can be problems with the crowns not staying on and problems with occlusion (bite) of the patient not being correct. The process is not simple. Additionally, even among highly trained and experienced dentists, the Dental Board sees numerous instances of improper preparation and/or placement of crowns causing difficulties for patients.

2. Like many of the other authorized procedures, an additional 18-months of training the bill would require of an RDP simply cannot be sufficient to prepare an RDP to safely perform a procedure like cavity preparation (permanent removal of tooth structure) — a procedure the bill would allow an RDP to perform without a dentist present.

3. It should be expected that when a RDP performs and bills the patient's insurance for a procedure and a dentist must redo or correct the work, the insurance company will not pay a second time for the procedure being redone by a dentist. That will leave the patient to pay for the retreatment.

4. The bill permits a RDP to perform many dental procedures that currently can only be performed by a dentist, but does not indicate that the RDP will be held to the same standard of care as a dentist.

5. Many of the procedures permitted by the bill are broadly worded. For example, the bill would allow an RDP to diagnose oral disease and formulate a patient's treatment plan. An 18-month education program is not sufficient to prepare an RDP to adequately diagnose all oral diseases. Likewise such a program cannot be sufficient to prepare an RDP to appreciate the numerous instances in which an apparently appropriate treatment plan can have unintended and very negative consequences. As an example, the removal or alteration of the occlusal surface (chewing or biting surface) during an occlusal adjustment, placement of a crown, adjustment of a denture, etc. can unintentionally change the neural/muscular jaw joint function in a way the causes increased symptoms. The diagnostic and treatment skills necessary to avoid such an unintended consequence are difficult to obtain except through significant clinical training.

6. The bill authorizes the Board of Regents and not the Kansas Dental Board to approve the curriculum of the 18-month course [New Section 1 (c)(1) – p.2]. The Board of Regents will not have the expertise to determine the appropriate curriculum. Kansas law requires the Dental Board to approve the dental schools and hygiene schools from which Kansas licensees may graduate. That is generally true for all licensing boards in Kansas. In the other instances when a Dental Board licensee is required to have additional education or training it is the Dental Board that must approve those courses. Transferring the approval process to the Board of Regents is a significant negative departure from what is common in the Kansas law applying to licensing boards.

7. Currently for a dentist licensed in another state to become licensed in Kansas without passing a competency examination that dentist must have practiced for 5 years before applying. The bill would reduce that period to 3 years [p. 8 65-1434 (b)(3) and (4)]. The Board feels strongly that 3 years is too short of a period.

8. The bill would disproportionately places 2 RDPs on the Dental Board in addition to the current 6 dentists, 2 hygienists and 1 public member. Currently there are approximately 2203 licensed dentists and 2802 licensed dental hygienists in Kansas. There are no licensed RDPs and the likelihood of having any significant number in the future is questionable. Placing 2 RDPs on the Dental Board would result in a highly disproportional representation of a very small group. Further, the first two RDPs are to be appointed for terms beginning May 1, 2017. If this bill were to pass, it would become effective July 1, 2015. May 1, 2017 is only 22 months later. There are currently no approved 18-month courses, let alone any graduates. It is unknown if the course will require the students to be full time or part time and therefore whether it is possible for any such graduates to exist on May 1, 2017. There is no assurance there will be any licensed RDPs in Kansas by May 1, 2017.

9. The bill requires a "supervising dentist" to be employed by an indigent health clinic or enrolled as a Medicaid provider. But, the bill does not limit an RDP's practice to an indigent health clinic or to Medicaid patients. There is no reason to think that the practices of

RDPs will be so self-limiting. It should be expected that RDPs will bill self-pay patients and be paid by insurance companies at the same rates as dentists.

10. There is no established data to show that licensing hygienists as RDPs will have the effect of increasing Kansans' access to dental care. In 2012 the Legislature created an Extended Care Permit III for hygienists. *See*, K.S.A. 65-1456 (h). This legislation provided for an expanded scope of practice for hygienists treating many categories of children and in health clinics and centers. It was passed for the purpose of expanding the availability of dental services to underserved populations. Whether this program has been effective in expanding the availability of dental care in Kansas has not yet been determined. Although only 18 hours of additional training is required for an ECP III, only 16 were issued in 2013 and 10 in 2014. The effectiveness of that program should be determined and evaluated before creating another level of dental licensure that many dentists feel will not be in the best interest of the oral health of the public.

11. The bill authorizes an RDP to treat dental emergencies. Dental emergencies may require the prescribing of drugs. The bill also authorizes an RDP to provide "emergency palliative treatment of dental pain." Again, such treatment often involves the prescribing of pain killing drugs of various kinds. It is not clear if the bill is intended to authorize RDP to prescribe drugs to treat dental emergencies and pain.

12. New Section 1(c)(3), at p. 2 is unclear whether the requirement refers to practice as a hygienist or as an RDP. It is also unclear how the Board can determine if this requirement has been met.

13. The bill uses the term "dental therapy", which is not defined.

In summary, it is worth pointing out that the hard structure of the tooth, unlike most other parts of the body, once damaged or removed, will not regenerate. Currently a dental hygienist is not permitted to remove the hard structure of the tooth. Only a fully trained and licensed dentist is permitted to remove hard tooth structure. This bill would allow an RDP to remove tooth structure without the necessary training and experience to adequately protect the public.