

1041

2009-2010 Regular Sessions

I N S E N A T E

January 22, 2009

Introduced by Sens. LAVALLE, SAMPSON -- read twice and ordered printed,
and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to establishing a state
board for dentistry and a state board for dental hygiene

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The education law is amended by adding two new sections
2 6603-a and 6603-b to read as follows:
3 S 6603-A. STATE BOARD FOR DENTISTRY. A STATE BOARD FOR DENTISTRY SHALL
4 BE APPOINTED BY THE BOARD OF REGENTS ON RECOMMENDATION OF THE COMMIS-
5 SIONER FOR THE PURPOSE OF ASSISTING THE BOARD OF REGENTS AND THE DEPART-
6 MENT ON MATTERS OF PROFESSIONAL LICENSING AND PROFESSIONAL CONDUCT IN
7 ACCORDANCE WITH SECTION SIXTY-FIVE HUNDRED EIGHT OF THIS TITLE. THE
8 BOARD SHALL BE COMPOSED OF NOT LESS THAN THIRTEEN DENTISTS LICENSED IN
9 THIS STATE FOR AT LEAST FIVE YEARS, NOT LESS THAN THREE DENTAL HYGIEN-
10 ISTS LICENSED IN THIS STATE FOR AT LEAST FIVE YEARS, AND NOT LESS THAN
11 ONE CERTIFIED DENTAL ASSISTANT LICENSED IN THIS STATE FOR AT LEAST ONE
12 YEAR. AN EXECUTIVE SECRETARY TO THE BOARD SHALL BE APPOINTED BY THE
13 BOARD OF REGENTS ON RECOMMENDATION OF THE COMMISSIONER AND SHALL BE A
14 DENTIST LICENSED IN THIS STATE. MEMBERS OF THE BOARD AND THE EXECUTIVE
15 SECRETARY SHALL SERVE AT THE PLEASURE OF THE BOARD OF REGENTS. THE
16 MEMBERS OF THE BOARD AND THE EXECUTIVE SECRETARY SHALL RECEIVE NO
17 COMPENSATION FOR THEIR SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND
18 NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.
19 S 6603-B. STATE BOARD FOR DENTAL HYGIENE. 1. A STATE BOARD FOR DENTAL
20 HYGIENE SHALL BE APPOINTED BY THE BOARD OF REGENTS ON THE RECOMMENDATION
21 OF THE COMMISSIONER FOR THE PURPOSE OF ASSISTING THE BOARD OF REGENTS
22 AND THE DEPARTMENT ON MATTERS OF PROFESSIONAL LICENSING AND PROFESSIONAL
23 CONDUCT IN ACCORDANCE WITH SECTION SIXTY-FIVE HUNDRED EIGHT OF THIS
24 TITLE. THE BOARD SHALL BE COMPOSED OF NOT LESS THAN TWELVE INDIVIDUALS.
25 MEMBERS OF THE BOARD SHALL BE APPOINTED FOR A TERM OF FOUR YEARS.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 INITIAL APPOINTMENTS TO THE STATE BOARD SHALL BE SUCH THAT THE TERMS
2 SHALL BE STAGGERED. HOWEVER, NO INDIVIDUAL SHALL SERVE MORE THAN TWO
3 TERMS.

4 2. THE STATE BOARD FOR DENTAL HYGIENE SHALL BE COMPOSED OF THE FOLLOW-
5 ING MEMBERS:

6 A. SEVEN MEMBERS SHALL BE PERSONS LICENSED TO PRACTICE DENTAL HYGIENE
7 IN NEW YORK STATE.

8 (1) ONE OF THE SEVEN REGISTERED DENTAL HYGIENE MEMBERS SHALL BE OR
9 HAVE BEEN ENGAGED PRIMARILY IN PUBLIC HEALTH DENTAL HYGIENE PRACTICE.

10 (2) ONE OF THE SEVEN REGISTERED DENTAL HYGIENE MEMBERS SHALL BE OR
11 HAVE BEEN ENGAGED PRIMARILY IN PRIVATE PRACTICE.

12 (3) ONE OF THE SEVEN REGISTERED DENTAL HYGIENE MEMBERS SHALL BE OR
13 HAVE BEEN ENGAGED PRIMARILY IN SPECIAL NEEDS DENTAL HYGIENE PRACTICE.

14 (4) ONE OF THE SEVEN REGISTERED DENTAL HYGIENE MEMBERS SHALL BE OR
15 HAVE BEEN ENGAGED PRIMARILY IN DENTAL HYGIENE EDUCATION.

16 B. TWO MEMBERS SHALL BE PERSONS LICENSED TO PRACTICE DENTISTRY IN NEW
17 YORK STATE.

18 (1) ONE OF THE TWO DENTIST MEMBERS SHALL BE OR HAVE BEEN ENGAGED
19 PRIMARILY IN PRIVATE GENERAL PRACTICE DENTISTRY.

20 (2) ONE OF THE TWO DENTIST MEMBERS SHALL BE OR HAVE BEEN ENGAGED
21 PRIMARILY IN PUBLIC HEALTH DENTISTRY AND SHALL ALSO POSSESS A MASTER'S
22 DEGREE IN PUBLIC HEALTH OR A MASTER'S DEGREE IN DENTAL PUBLIC HEALTH.

23 C. THREE MEMBERS OF THE STATE BOARD SHALL BE INDIVIDUALS NOT POSSESS-
24 ING EITHER LICENSURE OR TRAINING IN DENTAL HYGIENE OR DENTISTRY AND
25 SHALL REPRESENT THE CONSUMER PUBLIC.

26 3. AN EXECUTIVE SECRETARY SHALL BE APPOINTED TO THE BOARD ON RECOMMEN-
27 DATION OF THE COMMISSIONER AND SHALL BE A REGISTERED DENTAL HYGIENIST
28 LICENSED TO PRACTICE IN THIS STATE. THE APPOINTMENT OF THE INITIAL EXEC-
29 UTIVE SECRETARY OF THE BOARD SHALL BE FROM CANDIDATES RECOMMENDED BY THE
30 DENTAL HYGIENISTS' ASSOCIATION OF THE STATE OF NEW YORK, INC. VACANCIES
31 IN THE BOARD SHALL BE FILLED IN THE MANNER OF THEIR ORIGINAL APPOINT-
32 MENT. THE MEMBERS OF THE BOARD AND THE EXECUTIVE SECRETARY SHALL RECEIVE
33 NO COMPENSATION FOR THEIR SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL
34 AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

35 S 2. Section 6605-b of the education law, as added by chapter 437 of
36 the laws of 2001, is amended to read as follows:

37 S 6605-b. [Dental hygiene restricted local infiltration] LOCAL
38 anesthesia/nitrous oxide analgesia certificate FOR DENTAL HYGIENISTS. 1.
39 A dental hygienist [shall not] MAY administer or monitor nitrous oxide
40 analgesia or local [infiltration] anesthesia [in the practice of dental
41 hygiene without] WITH a [dental hygiene restricted] local [infiltration]
42 anesthesia/nitrous oxide analgesia certificate [and except under the
43 personal supervision of a dentist and] in conjunction with the perform-
44 ance of dental [hygiene] procedures authorized by law and in accordance
45 with regulations promulgated by the commissioner. [Personal supervision,
46 for purposes of this section, means that the supervising dentist remains
47 in the dental office where the local infiltration anesthesia or nitrous
48 oxide analgesia services are being performed, personally authorizes and
49 prescribes the use of local infiltration anesthesia or nitrous oxide
50 analgesia for the patient and, before dismissal of the patient,
51 personally examines the condition of the patient after the use of local
52 infiltration anesthesia or nitrous oxide analgesia is completed. It is
53 professional misconduct for a dentist to fail to provide the supervision
54 required by this section, and any dentist found guilty of such miscon-
55 duct under the procedures prescribed in section sixty-five hundred ten

1 of this title shall be subject to the penalties prescribed in section
2 sixty-five hundred eleven of this title.]

3 2. The commissioner shall promulgate regulations establishing stand-
4 ards and procedures for the issuance of such certificate. Such standards
5 shall require completion of an educational program and/or course of
6 training or experience sufficient to ensure that a dental hygienist is
7 specifically trained in the administration and monitoring of nitrous
8 oxide analgesia and local [infiltration] anesthesia, the possible
9 effects of such use, and in the recognition of and response to possible
10 emergency situations.

11 3. The fee for a [dental hygiene restricted] local [infiltration]
12 anesthesia/nitrous oxide analgesia certificate FOR DENTAL HYGIENISTS
13 shall be twenty-five dollars and shall be paid on a triennial basis upon
14 renewal of such certificate. A certificate may be suspended or revoked
15 in the same manner as a license to practice dental hygiene.

16 S 3. Section 6606 of the education law, as amended by chapter 244 of
17 the laws of 1973, subdivision 1 as amended by chapter 437 of the laws of
18 2001, is amended to read as follows:

19 S 6606. Definition of practice of dental hygiene. 1. The practice of
20 the profession of dental hygiene is defined as the performance of dental
21 services which [shall include removing calcareous deposits, accretions
22 and stains from the exposed surfaces of the teeth which begin at the
23 epithelial attachment and applying topical agents indicated for a
24 complete dental prophylaxis, removing cement, placing or removing rubber
25 dam, removing sutures, placing matrix band, providing patient education,
26 applying topical medication, placing and exposing X-ray films, perform-
27 ing topical fluoride applications and topical anesthetic applications,
28 polishing teeth, taking medical history, charting caries, taking
29 impressions for study casts, placing and removing temporary restora-
30 tions, administering and monitoring nitrous oxide analgesia and adminis-
31 tering and monitoring local infiltration anesthesia, subject to certifi-
32 cation in accordance with section sixty-six hundred five-b of this
33 article, and any other function in the definition of the practice of
34 dentistry as may be delegated by a licensed dentist in accordance with
35 regulations promulgated by the commissioner. The practice of dental
36 hygiene may be conducted in the office of any licensed dentist or in any
37 appropriately equipped school or public institution but must be done
38 under the supervision of a licensed dentist] AIM TO PROMOTE ORAL HEALTH
39 THROUGH EDUCATION, PREVENTION, AND DELIVERY OF THERAPEUTIC TREATMENTS TO
40 MINIMIZE ORAL DISEASE THROUGH SUCH SERVICES AS RISK ASSESSMENT, DENTAL
41 HYGIENE DIAGNOSIS, DISEASE MANAGEMENT, CASE FINDING, HEALTH AND ORAL
42 HEALTH TEACHING, BIOLOGICAL, BEHAVIORAL, SOCIAL, AND ORAL HEALTH COUN-
43 SELING, ANTICIPATORY GUIDANCE, AND PROVISION OF TREATMENT AND HEALTHCARE
44 DELIVERY SUPPORTIVE TO OR RESTORATIVE OF DENTAL HYGIENE CARE AND
45 WELL-BEING AND EXISTING REGIMENS PRESCRIBED BY A LICENSED DENTIST
46 CONSISTENT WITH REGULATIONS SET FORTH BY THE COMMISSIONER. UNDER THE
47 SUPERVISION OF A LICENSED DENTIST, THE PRACTICE OF DENTAL HYGIENE SHALL
48 NOT BE IMPEDED BY THE SETTING IN WHICH A LICENSED DENTAL HYGIENIST MAY
49 PROVIDE DENTAL HYGIENE SERVICES.

50 2. The commissioner shall promulgate regulations defining the func-
51 tions a dental hygienist may perform that are consistent with the
52 [training] EDUCATION and qualifications for a license as a dental
53 hygienist.

54 S 4. Section 6607 of the education law, as added by chapter 987 of the
55 laws of 1971, is amended to read as follows:

1 S 6607. Practice of dental hygiene and use of title "REGISTERED dental
2 hygienist". Only a person licensed under section sixty-six hundred nine
3 of this article or exempt shall practice dental hygiene or use the title
4 "REGISTERED dental hygienist".

5 S 5. The education law is amended by adding a new section 6607-a to
6 read as follows:

7 S 6607-A. LIMITED PERMITS. 1. A LIMITED PERMIT TO PRACTICE DENTAL
8 HYGIENE MAY BE GRANTED TO AN INDIVIDUAL WHO HAS TO THE SATISFACTION OF
9 THE DEPARTMENT MET ALL THE REQUIREMENTS OF SECTION SIXTY-SIX HUNDRED
10 NINE OF THIS ARTICLE, BUT HAS NOT YET PASSED THE EXAMINATION REQUIRED BY
11 SUBDIVISION FOUR OF SUCH SECTION.

12 A. A LIMITED PERMIT UNDER THIS SUBDIVISION SHALL BE VALID FOR A PERIOD
13 NOT TO EXCEED ONE YEAR.

14 B. A LIMITED PERMIT SHALL ENTITLE THE HOLDER TO PRACTICE DENTAL
15 HYGIENE ONLY UNDER THE PERSONAL SUPERVISION OF A LICENSED DENTIST OR
16 REGISTERED DENTAL HYGIENIST.

17 C. THE FEE FOR A LIMITED PERMIT UNDER THIS SUBDIVISION SHALL BE ONE
18 HUNDRED FIVE DOLLARS.

19 2. A LIMITED PERMIT TO PRACTICE DENTAL HYGIENE MAY BE GRANTED FOR
20 CLINICAL INSTRUCTION OF DENTAL HYGIENE TO A DENTAL HYGIENIST NOT
21 LICENSED UNDER THIS ARTICLE, TO BE EMPLOYED BY A REGISTERED SCHOOL OF
22 DENTAL HYGIENE. SUCH LIMITED PERMIT FOR CLINICAL INSTRUCTION SHALL ALLOW
23 FOR CLINICAL INSTRUCTION OF DENTAL HYGIENE OR SUPERVISION OF DENTAL
24 HYGIENE STUDENTS IN A REGISTERED SCHOOL IN THE STATE, AND IN SO DOING TO
25 PRACTICE DENTAL HYGIENE AS DEFINED IN THIS ARTICLE, BUT ONLY IN THE
26 PERFORMANCE OF HIS OR HER CLINICAL INSTRUCTION OF DENTAL HYGIENE.

27 3. A LIMITED PERMIT UNDER THIS SUBDIVISION SHALL BE VALID FOR THREE
28 YEARS.

29 4. THE FEE FOR A LIMITED PERMIT UNDER THIS SUBDIVISION AND FOR EACH
30 RENEWAL SHALL BE ONE HUNDRED SIXTY DOLLARS.

31 S 6. This act shall take effect immediately.