

8347

I N   S E N A T E

June 24, 2010

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Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the education law, in relation to amending the definition of the scope of practice of dentistry to authorize certain dentists who are qualified and certified to perform any procedure in the oral and maxillofacial area; and to amend the public health law and the civil practice law and rules, in relation to the discipline and liability of dentists who are so qualified and certified

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

1     Section 1. Section 6601 of the education law, as amended by chapter  
2     576 of the laws of 2001, is amended to read as follows:  
3     S 6601. Definition of practice of dentistry. 1. The practice of the  
4     profession of dentistry is defined as diagnosing, treating, operating,  
5     or prescribing for any disease, pain, injury, deformity, or physical  
6     condition of the oral and maxillofacial area related to restoring and  
7     maintaining dental health. The practice of dentistry includes the  
8     prescribing and fabrication of dental prostheses and appliances. The  
9     practice of dentistry may include performing physical evaluations in  
10    conjunction with the provision of dental treatment.  
11    2. ANY ORAL AND MAXILLOFACIAL SURGEON CERTIFIED BY THE DEPARTMENT IN  
12    ACCORDANCE WITH QUALIFICATIONS ESTABLISHED BY THE DEPARTMENT MAY PERFORM  
13    ADDITIONAL SURGICAL PROCEDURES INVOLVING THE HARD OR SOFT TISSUES OF THE  
14    ORAL AND MAXILLOFACIAL AREA. QUALIFICATIONS TO PERFORM SUCH ADDITIONAL  
15    SURGICAL PROCEDURES SHALL INCLUDE BEING: (A) CERTIFIED BY THE AMERICAN  
16    BOARD OF ORAL AND MAXILLOFACIAL SURGERY OR SUCH EQUIVALENT NATIONAL  
17    CERTIFYING BOARD OR ORGANIZATION ACCEPTABLE TO THE COMMISSIONER FOR SUCH  
18    ADDITIONAL SURGICAL PROCEDURES, AND (B) GRANTED HOSPITAL PRIVILEGES FOR  
19    SUCH SURGICAL PROCEDURES BY A GENERAL HOSPITAL LICENSED PURSUANT TO  
20    ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW.  
21    S 2. Paragraph (i) of subdivision 1 of section 230-d of the public  
22    health law, as added by chapter 365 of the laws of 2007, is amended to  
23    read as follows:

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

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1 (i) "Licensee" shall mean an individual licensed or otherwise author-  
2 ized under [articles] ARTICLE one hundred thirty-one or one hundred  
3 thirty-one-B of the education law, OR CERTIFIED PURSUANT TO SUBDIVISION  
4 TWO OF SECTION SIXTY-SIX HUNDRED ONE OF THE EDUCATION LAW.

5 S 3. Section 2995-d of the public health law is amended by adding a  
6 new subdivision 4-a to read as follows:

7 4-A. IN COOPERATION WITH THE EDUCATION DEPARTMENT, STUDY HEALTH CARE  
8 PRACTITIONER DATA RELATING TO ORAL AND MAXILLOFACIAL SURGEONS CERTIFIED  
9 PURSUANT TO SUBDIVISION TWO OF SECTION SIXTY-SIX HUNDRED ONE OF THE  
10 EDUCATION LAW. SUCH STUDY SHALL INCLUDE CONSIDERATION OF WHETHER AN  
11 INDIVIDUAL PROFILING PROGRAM SHOULD BE ESTABLISHED AND OUTLINE AN APPRO-  
12 PRIATE METHOD TO DEVELOP AND IMPLEMENT SUCH A PROFILING PROGRAM IF SUCH  
13 A PROGRAM IS DETERMINED BY THE DEPARTMENT TO BE IN THE PUBLIC INTEREST.  
14 SUCH PROGRAM AND RECOMMENDATIONS MAY BE SIMILAR TO THE PHYSICIAN  
15 PROFILES ESTABLISHED PURSUANT TO SECTION TWENTY-NINE HUNDRED  
16 NINETY-FIVE-A OF THIS TITLE. SUCH A PROPOSED ORAL AND MAXILLOFACIAL  
17 SURGEON PROFILING PROGRAM, IF SUCH A PROGRAM IS DETERMINED BY THE  
18 DEPARTMENT TO BE IN THE PUBLIC INTEREST, SHOULD BE CAPABLE OF PRESENT-  
19 ING, IN A COST EFFECTIVE MANNER, RELEVANT MEDICAL AND TREATMENT INFORMA-  
20 TION IN A FORMAT THAT IS EASILY UNDERSTOOD BY AND MADE AVAILABLE TO THE  
21 GENERAL PUBLIC. SUCH STUDY AND ITS FINDINGS SHALL BE SUBMITTED TO THE  
22 GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE  
23 ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF  
24 THE ASSEMBLY ON OR BEFORE JUNE FIRST, TWO THOUSAND FIFTEEN;

25 S 4. Paragraph 1 of subdivision (d) of section 3101 of the civil prac-  
26 tice law and rules is amended by adding a new subparagraph (iv) to read  
27 as follows:

28 (IV) IN AN ACTION FOR ORAL AND MAXILLOFACIAL SURGERY MEDICAL MALPRAC-  
29 TICE FOR PROCEDURES PERFORMED PURSUANT TO SUBDIVISION TWO OF SECTION  
30 SIXTY-SIX HUNDRED ONE OF THE EDUCATION LAW, A PHYSICIAN MAY BE CALLED AS  
31 AN EXPERT WITNESS AT TRIAL.

32 S 5. This act shall take effect on the one hundred eightieth day after  
33 it shall have become a law; provided, however, that effective immediate-  
34 ly, the addition, amendment and/or repeal of any rule or regulation  
35 necessary for the implementation of the provisions of this act on its  
36 effective date are authorized and directed to be made and completed on  
37 or before such effective date.