S T A T E O F N E W Y O R K

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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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The education law is amended by adding two new sections 6603-a and 6603-b to read as follows:

S 6603-A. STATE BOARD FOR DENTISTRY. A STATE BOARD FOR DENTISTRY SHALL BE APPOINTED BY THE BOARD OF REGENTS ON RECOMMENDATION OF THE COMMISSIONER FOR THE PURPOSE OF ASSISTING THE BOARD OF REGENTS AND THE DEPARTMENT ON MATTERS OF PROFESSIONAL LICENSING AND PROFESSIONAL CONDUCT IN ACCORDANCE WITH SECTION SIXTY-FIVE HUNDRED EIGHT OF THIS TITLE. THE BOARD SHALL BE COMPOSED OF NOT LESS THAN THIRTEEN DENTISTS LICENSED IN THIS STATE FOR AT LEAST FIVE YEARS, NOT LESS THAN THREE DENTAL HYGIENISTS LICENSED IN THIS STATE FOR AT LEAST FIVE YEARS, AND NOT LESS THAN ONE CERTIFIED DENTAL ASSISTANT LICENSED IN THIS STATE FOR AT LEAST ONE YEAR. AN EXECUTIVE SECRETARY TO THE BOARD SHALL BE APPOINTED BY THE BOARD OF REGENTS ON RECOMMENDATION OF THE COMMISSIONER AND SHALL BE A DENTIST LICENSED IN THIS STATE. MEMBERS OF THE BOARD AND THE EXECUTIVE SECRETARY SHALL SERVE AT THE PLEASURE OF THE BOARD OF REGENTS. THE MEMBERS OF THE BOARD AND THE EXECUTIVE SECRETARY SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

S 6603-B. STATE BOARD FOR DENTAL HYGIENE. 1. A STATE BOARD FOR DENTAL HYGIENE SHALL BE APPOINTED BY THE BOARD OF REGENTS ON THE RECOMMENDATION OF THE COMMISSIONER FOR THE PURPOSE OF ASSISTING THE BOARD OF REGENTS AND THE DEPARTMENT ON MATTERS OF PROFESSIONAL LICENSING AND PROFESSIONAL CONDUCT IN ACCORDANCE WITH SECTION SIXTY-FIVE HUNDRED EIGHT OF THIS TITLE. THE BOARD SHALL BE COMPOSED OF NOT LESS THAN TWELVE INDIVIDUALS. 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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INITIAL APPOINTMENTS TO THE STATE BOARD SHALL BE SUCH THAT THE TERMS SHALL BE STAGGERED. HOWEVER, NO INDIVIDUAL SHALL SERVE MORE THAN TWO TERMS.

2. THE STATE BOARD FOR DENTAL HYGIENE SHALL BE COMPOSED OF THE FOLLOWING MEMBERS:

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

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

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

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

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

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

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

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

C. THREE MEMBERS OF THE STATE BOARD SHALL BE INDIVIDUALS NOT POSSESSING EITHER LICENSURE OR TRAINING IN DENTAL HYGIENE OR DENTISTRY AND SHALL REPRESENT THE CONSUMER PUBLIC.

3. AN EXECUTIVE SECRETARY SHALL BE APPOINTED TO THE BOARD ON RECOMMENDATION OF THE COMMISSIONER AND SHALL BE A REGISTERED DENTAL HYGIENIST LICENSED TO PRACTICE IN THIS STATE. THE APPOINTMENT OF THE INITIAL EXECUTIVE SECRETARY OF THE BOARD SHALL BE FROM CANDIDATES RECOMMENDED BY THE DENTAL HYGIENISTS' ASSOCIATION OF THE STATE OF NEW YORK, INC. VACANCIES IN THE BOARD SHALL BE FILLED IN THE MANNER OF THEIR ORIGINAL APPOINTMENT. THE MEMBERS OF THE BOARD AND THE EXECUTIVE SECRETARY SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

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

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

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

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

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

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

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

2. The commissioner shall promulgate regulations defining the functions a dental hygienist may perform that are consistent with the [training] EDUCATION and qualifications for a license as a dental hygienist.

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

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

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

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

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

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

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

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

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

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

S 6. This act shall take effect immediately.