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

8347

I N S E N A T E

June 24, 2010

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:

Section 1. Section 6601 of the education law, as amended by chapter 576 of the laws of 2001, is amended to read as follows:

S 6601. Definition of practice of dentistry. 1. The practice of the profession of dentistry is defined as diagnosing, treating, operating, or prescribing for any disease, pain, injury, deformity, or physical condition of the oral and maxillofacial area related to restoring and maintaining dental health. The practice of dentistry includes the prescribing and fabrication of dental prostheses and appliances. The practice of dentistry may include performing physical evaluations in conjunction with the provision of dental treatment.

2. ANY ORAL AND MAXILLOFACIAL SURGEON CERTIFIED BY THE DEPARTMENT IN ACCORDANCE WITH QUALIFICATIONS ESTABLISHED BY THE DEPARTMENT MAY PERFORM ADDITIONAL SURGICAL PROCEDURES INVOLVING THE HARD OR SOFT TISSUES OF THE ORAL AND MAXILLOFACIAL AREA. QUALIFICATIONS TO PERFORM SUCH ADDITIONAL SURGICAL PROCEDURES SHALL INCLUDE BEING: (A) CERTIFIED BY THE AMERICAN BOARD OF ORAL AND MAXILLOFACIAL SURGERY OR SUCH EQUIVALENT NATIONAL CERTIFYING BOARD OR ORGANIZATION ACCEPTABLE TO THE COMMISSIONER FOR SUCH ADDITIONAL SURGICAL PROCEDURES, AND (B) GRANTED HOSPITAL PRIVILEGES FOR SUCH SURGICAL PROCEDURES BY A GENERAL HOSPITAL LICENSED PURSUANT TO ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW.

S 2. Paragraph (i) of subdivision 1 of section 230-d of the public health law, as added by chapter 365 of the laws of 2007, is amended to read as follows:

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

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

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

4-A. IN COOPERATION WITH THE EDUCATION DEPARTMENT, STUDY HEALTH CARE PRACTITIONER DATA RELATING TO ORAL AND MAXILLOFACIAL SURGEONS CERTIFIED PURSUANT TO SUBDIVISION TWO OF SECTION SIXTY-SIX HUNDRED ONE OF THE EDUCATION LAW. SUCH STUDY SHALL INCLUDE CONSIDERATION OF WHETHER AN INDIVIDUAL PROFILING PROGRAM SHOULD BE ESTABLISHED AND OUTLINE AN APPROPRIATE METHOD TO DEVELOP AND IMPLEMENT SUCH A PROFILING PROGRAM IF SUCH A PROGRAM IS DETERMINED BY THE DEPARTMENT TO BE IN THE PUBLIC INTEREST. SUCH PROGRAM AND RECOMMENDATIONS MAY BE SIMILAR TO THE PHYSICIAN PROFILES ESTABLISHED PURSUANT TO SECTION TWENTY-NINE HUNDRED NINETY-FIVE-A OF THIS TITLE. SUCH A PROPOSED ORAL AND MAXILLOFACIAL SURGEON PROFILING PROGRAM, IF SUCH A PROGRAM IS DETERMINED BY THE DEPARTMENT TO BE IN THE PUBLIC INTEREST, SHOULD BE CAPABLE OF PRESENTING, IN A COST EFFECTIVE MANNER, RELEVANT MEDICAL AND TREATMENT INFORMATION IN A FORMAT THAT IS EASILY UNDERSTOOD BY AND MADE AVAILABLE TO THE GENERAL PUBLIC. SUCH STUDY AND ITS FINDINGS SHALL BE SUBMITTED TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF THE ASSEMBLY ON OR BEFORE JUNE FIRST, TWO THOUSAND FIFTEEN;

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

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

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