

5632

2013-2014 Regular Sessions

I N A S S E M B L Y

March 4, 2013

Introduced by M. of A. MORELLE, WRIGHT, ENGLEBRIGHT, ABBATE, LAVINE --
read once and referred to the Committee on Higher Education

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.

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

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

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

8 S 3. Paragraph (i) of subdivision 1 of section 230-d of the public
9 health law, as amended by chapter 438 of the laws of 2012, is amended to
10 read as follows:

11 (i) "Licensee" shall mean an individual licensed or otherwise author-
12 ized under article one hundred thirty-one, one hundred thirty-one-B,
13 CERTIFIED PURSUANT TO SUBDIVISION TWO OF SECTION SIXTY-SIX HUNDRED ONE,
14 OR individuals who have obtained an issuance of a privilege to perform
15 podiatric standard or advanced ankle surgery pursuant to subdivisions
16 one and two of section seven thousand nine of the education law.

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

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

37 S 5. Paragraph 1 of subdivision (d) of section 3101 of the civil prac-
38 tice law and rules is amended by adding a new subparagraph (v) to read
39 as follows:

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

44 S 6. This act shall take effect on the one hundred eightieth day after
45 it shall have become a law, except that section three of this act shall
46 take effect on the same date and in the same manner as chapter 438 of
47 the laws of 2012, takes effect; provided, however, that effective imme-
48 diately, the addition, amendment and/or repeal of any rule or regulation
49 necessary for the implementation of the provisions of this act on its
50 effective date are authorized and directed to be made and completed on
51 or before such effective date.