

STATE OF NEW YORK

11033

IN ASSEMBLY

October 7, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Gottfried)
-- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to licensing of a dental therapist and an advanced dental therapist; and to amend the social services law, in relation to Medicaid reimbursement for dental therapy services

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The article heading of article 133 of the education law, as
2 amended by chapter 390 of the laws of 2019, is amended to read as
3 follows:

4 DENTISTRY, DENTAL HYGIENE, DENTAL THERAPY, ADVANCED DENTAL
5 THERAPY AND REGISTERED DENTAL ASSISTING

6 § 2. Section 6600 of the education law, as amended by chapter 390 of
7 the laws of 2019, is amended to read as follows:

8 § 6600. Introduction. This article applies to the professions of
9 dentistry, dental hygiene, dental therapy, advanced dental therapy and
10 registered dental assisting. The general provisions for all professions
11 contained in article one hundred thirty of this title apply to this
12 article.

13 § 3. The education law is amended by adding eight new sections 6614,
14 6614-a, 6614-b, 6614-c, 6615, 6615-a, 6615-b and 6615-c to read as
15 follows:

16 § 6614. Definition of practice of dental therapy. 1. The practice of
17 the profession of dental therapy is defined as the performance of dental
18 services under the general supervision of a dentist within the parame-
19 ters of a collaborative agreement, as provided in subdivision two of
20 this section, which shall include: oral health instruction and disease
21 prevention education, including nutritional counseling and dietary anal-
22 ysis; preliminary charting of the oral cavity; making radiographs;
23 mechanical polishing; application of topical preventive or prophylactic
24 agents, including fluoride varnishes and pit and fissure sealants; pulp
25 vitality testing; application of desensitizing medication or resin;
26 fabrication of athletic mouthguards; placement of temporary restora-

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

LBD15478-02-0

1 tions; fabrication of soft occlusal guards; tissue conditioning and soft
2 reline; atraumatic restorative therapy; dressing changes; tooth reim-
3 plantation; administration of local anesthetic; administration of
4 nitrous oxide. A licensed and registered dental therapist may perform
5 the following services under indirect supervision: emergency palliative
6 treatment of dental pain; the placement and removal of space maintain-
7 ers; cavity preparation; restoration of primary and permanent teeth;
8 placement of temporary crowns; preparation and placement of preformed
9 crowns; pulpomies on primary teeth; indirect and direct pulp capping
10 on primary and permanent teeth; stabilization of reimplanted teeth;
11 extractions of primary teeth; suture removal; brush biopsies; repair of
12 defective prosthetic devices; and recementing of permanent crowns and
13 any other function in the definition of the practice of dentistry as may
14 be delegated by a licensed dentist in accordance with regulations
15 promulgated by the commissioner. The practice of dental therapy may be
16 conducted in the office of any licensed dentist or in any appropriately
17 equipped school or public institution.

18 2. (a) Prior to performing any of the services authorized under this
19 article, a dental therapist shall enter into a written collaborative
20 management agreement with a licensed and registered dentist. Such colla-
21 borative arrangement shall not obviate or supersede any law or regu-
22 lation which requires identified services to be performed under the
23 personal supervision of a dentist. When dental therapist services are
24 provided pursuant to a collaborative agreement, such dental therapists
25 shall instruct individuals to visit a licensed dentist for comprehensive
26 examination or treatment.

27 (b) A collaborating dentist is limited to entering into a collabora-
28 tive agreement with no more than five dental therapists or advanced
29 dental therapists at any one time. The agreement shall include: practice
30 settings where services may be provided and the populations to be
31 served; any limitations on the services that may be provided by the
32 dental therapist, including the level of supervision required by the
33 collaborating dentist; age and procedure-specific practice protocols,
34 including case selection criteria, assessment guidelines, and imaging
35 frequency; a procedure for creating and maintaining dental records for
36 the patients that are treated by the dental therapist; a plan to manage
37 medical emergencies in each practice setting where the dental therapist
38 provides care; a quality assurance plan for monitoring care provided by
39 the dental therapist, including patient care review, referral follow-up,
40 and a quality assurance chart review; criteria relating to the provision
41 of care to patients with specific medical conditions or complex medica-
42 tion histories, including requirements for consultation prior to the
43 initiation of care; supervision criteria of dental assistants; a plan
44 for the provision of clinical resources and referrals in situations
45 which are beyond the capabilities of the dental therapist; and protocols
46 for administering and dispensing analgesics, anti-inflammatories, and
47 antibiotics, including the specific conditions and circumstances under
48 which these medications are to be dispensed and administered.

49 (c) A collaborating dentist shall be licensed and practicing in New
50 York state. The collaborating dentist shall accept responsibility for
51 all services authorized and performed by the dental therapist pursuant
52 to the management agreement.

53 (d) Collaborative dentist management agreements shall be signed and
54 maintained by the collaborating dentist and the dental therapist. Agree-
55 ments shall be reviewed, updated, and submitted to the board on an annu-
56 al basis.

3. A dental therapist licensed under this article is limited to primarily practicing in settings that serve low-income, uninsured, and underserved patients or in a dental health professional shortage area as designated by the commissioner, including a health facility or agency that is reimbursed as a federally qualified health center as defined in 42 U.S.C. § 1395x(aa)(4) or a medically-underserved population as defined in 42 U.S.C. § 254b.

4. The commissioner shall promulgate regulations defining the functions a dental therapist may perform that are consistent with the training and qualifications for a license as a dental therapist.

5. As used in this section, "general supervision" shall mean the supervision of tasks or procedures that do not require the presence of a dentist in the office or on the premises at the time the tasks or procedures are being performed but require the tasks be performed with the prior knowledge and consent of such dentist. As used in this section, "indirect supervision" shall mean the dentist is in the office, authorizes the procedures and remains in the office while the procedures are being performed by allied dental personnel.

§ 6614-a. Requirements for a license as a dental therapist. To qualify for a license as a dental therapist, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;

2. Education: have received an education, including high school graduation and a baccalaureate degree or master's degree from a dental therapy education program, in accordance with the commissioner's regulations;

3. Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

4. Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations;

5. Age: be at least eighteen years of age;

6. Citizenship or immigration status: be a United States citizen or an alien lawfully admitted for permanent residence in the United States; provided, however, that the board of regents may grant a three year waiver for an alien to practice in an area which has been designated a federal dental health professions shortage area, except that the board of regents may grant an additional extension not to exceed six years to an alien to enable him or her to secure citizenship or permanent resident status, provided such status is being actively pursued;

7. Character: be of good moral character as determined by the department; and

8. Fees: pay a fee of one hundred fifteen dollars to the department for admission to a department conducted examination and for an initial license, a fee of fifty dollars for each reexamination, a fee of seventy dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of fifty dollars for each triennial registration period.

§ 6614-b. Practice of dental therapy and use of title "dental therapist". Only a person licensed under section sixty-six hundred fourteen-a of this article or exempt shall practice dental therapy or use the title "dental therapist".

§ 6614-c. Mandating continuing education for dental therapists. 1. (a) Each dental therapist licensed pursuant to sections sixty-six hundred fourteen and sixty-six hundred fourteen-a of this article and required to register triennially with the department to practice in this state shall comply with the provisions of the mandatory continuing education requirements, except as set forth in paragraphs (b) and (c) of this

1 subdivision. Dental therapists who do not satisfy the mandatory continu-
2 ing education requirements shall not practice until they have met such
3 requirements and have been issued a registration or conditional regis-
4 tration certificate.

5 (b) Dental therapists shall be exempt from the mandatory continuing
6 education requirement for the triennial registration period during which
7 they are first licensed. In accordance with the intent of this section,
8 adjustments to the mandatory continuing education requirement may be
9 granted by the department for reasons of health, certified by a physi-
10 cian, for extended active duty with the Armed Forces of the United
11 States, or for other good cause acceptable to the department which may
12 prevent compliance.

13 (c) A licensed dental therapist not engaged in the practice of dental
14 therapy shall be exempt from the mandatory continuing education require-
15 ment upon the filing of a statement with the department declaring such
16 status. Any licensee who returns to the practice of dental therapy
17 during the triennial registration period shall notify the department
18 prior to reentering the profession and shall meet such mandatory contin-
19 uing education requirements as shall be prescribed by regulation of the
20 commissioner.

21 2. During each triennial registration period an applicant for regis-
22 tration shall complete a minimum of twenty-four hours of acceptable
23 formal continuing education including currently mandated child abuse
24 reporting instruction and infection control training as approved by the
25 department. Of these twenty-four hours a maximum of ten hours may be
26 self-instructional coursework as approved by the department. A licensee
27 who has not satisfied the mandatory continuing education requirements
28 shall not be issued a triennial registration certificate by the depart-
29 ment and shall not practice unless and until a conditional registration
30 certificate is issued as provided in subdivision three of this section.
31 The individual licensee shall determine the selection of courses or
32 programs of study pursuant to subdivision four of this section.

33 3. The department, in its discretion, may issue a conditional regis-
34 tration to a licensee who fails to meet the continuing education
35 requirements established in subdivision two of this section but who
36 agrees to make up any deficiencies and take any additional education
37 which the department may require. The fee for such a conditional regis-
38 tration shall be the same as, and in addition to, the fee for the trien-
39 nal registration. The duration of such conditional registration shall
40 be determined by the department. Any licensee who is notified of the
41 denial of registration for failure to submit evidence, satisfactory to
42 the department, of completion of required continuing education and who
43 practices dental therapy without such registration, may be subject to
44 disciplinary proceedings pursuant to section sixty-five hundred ten of
45 this title.

46 4. As used in this section, "acceptable formal continuing education"
47 shall mean formal programs of learning which contribute to professional
48 practice and which meet the standards prescribed by regulations of the
49 commissioner. To fulfill the mandatory continuing education requirement,
50 programs shall be taken from sponsors approved by the department, pursu-
51 ant to the regulations of the commissioner.

52 5. The mandatory continuing education fee of thirty dollars shall be
53 payable on or before the first day of each triennial registration period
54 and shall be paid in addition to the triennial registration fee required
55 by section sixty-six hundred fourteen-a of this article.

1 § 6615. Definition of practice of advanced dental therapy. 1. The
2 practice of the profession of advanced dental therapy is defined as the
3 performance of dental services under the general supervision of a
4 dentist within the parameters of a collaborative agreement as provided
5 in subdivision two of this section which shall include: an oral evalu-
6 ation and assessment of dental disease and the formulation of an indi-
7 vidualized treatment plan authorized by the collaborating dentist;
8 nonsurgical extractions of periodontally diseased permanent teeth with
9 tooth mobility of +3 to +4 under general supervision if authorized in
10 advance by the collaborating dentist, but shall not include extracting a
11 tooth for any patient if the tooth is unerupted, impacted, fractured, or
12 needs to be sectioned for removal; and the services and procedures
13 described under subdivision one of section sixty-six hundred fourteen of
14 this article. The practice of advanced dental therapy may be conducted
15 in the office of any licensed dentist or in any appropriately equipped
16 school or public institution.

17 2. Prior to performing any of the services authorized under this arti-
18 cle, an advanced dental therapist shall enter into a written collabora-
19 tive management agreement with a licensed and registered dentist pursu-
20 ant to subdivision two of section sixty-six hundred fourteen. The
21 collaborating dentist shall ensure that a dentist is available to the
22 advanced dental therapist for timely consultation during treatment if
23 needed and shall either provide or arrange with another dentist or
24 specialist to provide the necessary treatment to any patient who
25 requires more treatment than the advanced dental therapist is authorized
26 to provide.

27 3. An advanced dental therapist licensed under this article is limited
28 to primarily practicing in settings that serve low-income, uninsured,
29 and underserved patients or in a dental health professional shortage
30 area as designated by the commissioner.

31 4. The commissioner shall promulgate regulations defining the func-
32 tions an advanced dental therapist may perform that are consistent with
33 the training and qualifications for a license as an advanced dental
34 therapist.

35 § 6615-a. Requirements for a license as an advanced dental therapist.
36 To qualify for a license as an advanced dental therapist, an applicant
37 shall fulfill the following requirements:

38 1. Application: file an application with the department;

39 2. Education: have received an education, including high school gradu-
40 ation and a master's degree from a dental therapy education program, in
41 accordance with the commissioner's regulations;

42 3. Experience: have experience satisfactory to the board and in
43 accordance with the commissioner's regulations;

44 4. Examination: pass an examination satisfactory to the board and in
45 accordance with the commissioner's regulations;

46 5. Age: be at least eighteen years of age;

47 6. Citizenship or immigration status: be a United States citizen or an
48 alien lawfully admitted for permanent residence in the United States;
49 provided, however, that the board of regents may grant a three year
50 waiver for an alien to practice in an area which has been designated a
51 federal dental health professions shortage area, except that the board
52 of regents may grant an additional extension not to exceed six years to
53 an alien to enable him or her to secure citizenship or permanent resi-
54 dent status, provided such status is being actively pursued;

55 7. Character: be of good moral character as determined by the depart-
56 ment; and

1 8. Fees: pay a fee of one hundred fifteen dollars to the department
2 for admission to a department conducted examination and for an initial
3 license, a fee of fifty dollars for each reexamination, a fee of seventy
4 dollars for an initial license for persons not requiring admission to a
5 department conducted examination, and a fee of fifty dollars for each
6 triennial registration period.

7 § 6615-b. Practice of advanced dental therapy and use of the title
8 "advanced dental therapist". Only a person licensed under section
9 sixty-six hundred fifteen-a of this article or exempt shall practice
10 advanced dental therapy or use the title "advanced dental therapist".

11 § 6615-c. Mandatory continuing education for advanced dental thera-
12 pists. 1. (a) Each advanced dental therapist, licensed pursuant to this
13 article and required to register triennially with the department to
14 practice in this state shall comply with the provisions of the mandatory
15 continuing education requirements, except as set forth in paragraphs (b)
16 and (c) of this subdivision. Advanced dental therapists who do not
17 satisfy the mandatory continuing education requirements shall not prac-
18 tice until they have met such requirements and have been issued a regis-
19 tration or conditional registration certificate.

20 (b) Advanced dental therapists shall be exempt from the mandatory
21 continuing education requirement for the triennial registration period
22 during which they are first licensed. In accordance with the intent of
23 this section, adjustments to the mandatory continuing education require-
24 ment may be granted by the department for reasons of health, certified
25 by a physician, for extended active duty with the Armed Forces of the
26 United States, or for other good cause acceptable to the department
27 which may prevent compliance.

28 (c) A licensed advanced dental therapist not engaged in the practice
29 of advanced dental therapy shall be exempt from the mandatory continuing
30 education requirement upon the filing of a statement with the department
31 declaring such status. Any licensee who returns to the practice of
32 dental therapy during the triennial registration period shall notify the
33 department prior to reentering the profession and shall meet such manda-
34 tory continuing education requirements as shall be prescribed by regu-
35 lation of the commissioner.

36 2. During each triennial registration period an applicant for regis-
37 tration shall complete a minimum of twenty-four hours of acceptable
38 formal continuing education including currently mandated child abuse
39 reporting instruction and infection control training as approved by the
40 department. Of these twenty-four hours a maximum of ten hours may be
41 self-instructional coursework as approved by the department. A licensee
42 who has not satisfied the mandatory continuing education requirements
43 shall not be issued a triennial registration certificate by the depart-
44 ment and shall not practice unless and until a conditional registration
45 certificate is issued as provided in subdivision three of this section.
46 The individual licensee shall determine the selection of courses or
47 programs of study pursuant to subdivision four of this section.

48 3. The department, in its discretion, may issue a conditional regis-
49 tration to a licensee who fails to meet the continuing education
50 requirements established in subdivision two of this section but who
51 agrees to make up any deficiencies and take any additional education
52 which the department may require. The fee for such a conditional regis-
53 tration shall be the same as, and in addition to, the fee for the trien-
54 niel registration. The duration of such conditional registration shall
55 be determined by the department. Any licensee who is notified of the
56 denial of registration for failure to submit evidence, satisfactory to

1 the department, of completion of required continuing education and who
2 practices advanced dental therapy without such registration, may be
3 subject to disciplinary proceedings pursuant to section sixty-five
4 hundred ten of this title.

5 4. As used in this section, "acceptable formal continuing education"
6 shall mean formal programs of learning which contribute to professional
7 practice and which meet the standards prescribed by regulations of the
8 commissioner. To fulfill the mandatory continuing education requirement,
9 programs shall be taken from sponsors approved by the department, pursu-
10 ant to the regulations of the commissioner.

11 5. The mandatory continuing education fee of thirty dollars shall be
12 payable on or before the first day of each triennial registration period
13 and shall be paid in addition to the triennial registration fee required
14 by section sixty-six hundred fifteen-a of this article.

15 § 4. Subdivision 2 of section 365-a of the social service law is
16 amended by adding a new paragraph (gg) to read as follows:

17 (gg) care and services furnished by a licensed dental therapist pursu-
18 ant to article one hundred thirty-three of the education law who is
19 enrolled as a medicaid managed care provider;

20 § 5. The commissioner of health is authorized to promulgate or adopt
21 any rules or regulations necessary to implement the provisions of this
22 act and any procedures, forms, or instructions necessary for such imple-
23 mentation may be adopted and issued on or after the effective date of
24 this act. Notwithstanding any inconsistent provision of the state admin-
25 istrative procedure act or any other provision of law, rule or regu-
26 lation, the commissioner of health and the superintendent of financial
27 services and any appropriate council is authorized to adopt or amend or
28 promulgate on an emergency basis any regulation he or she or such coun-
29 cil determines necessary to implement any provision of this act on its
30 effective date.

31 § 6. This act shall take effect on the one hundred eightieth day after
32 it shall have become a law.