

STATE OF NEW YORK

5848--B

Cal. No. 1042

2019-2020 Regular Sessions

IN SENATE

May 15, 2019

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report -- amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading

AN ACT to amend the education law, in relation to local block anesthesia, infiltration anesthesia, nitrous oxide, and dental assisting practice

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

1 Section 1. Section 6605-b of the education law, as added by chapter
2 437 of the laws of 2001, is amended to read as follows:
3 § 6605-b. Dental hygiene restricted local infiltration and block
4 anesthesia/nitrous oxide analgesia [~~certificate~~] certificates. 1. A
5 dental hygienist shall not administer or monitor nitrous oxide analgesia
6 or local infiltration anesthesia in the practice of dental hygiene with-
7 out a dental hygiene restricted local infiltration anesthesia/nitrous
8 oxide analgesia certificate and except under the personal supervision of
9 a dentist [~~and in conjunction with the performance of dental hygiene~~
10 ~~procedures~~] authorized by law and in accordance with regulations promul-
11 gated by the commissioner. Personal supervision, for purposes of this
12 section, means that the supervising dentist remains in the dental office
13 where the local infiltration anesthesia or nitrous oxide analgesia
14 services are being performed, personally authorizes and prescribes the
15 use of local infiltration anesthesia or nitrous oxide analgesia for the
16 patient and, before dismissal of the patient, personally examines the
17 condition of the patient after the use of local infiltration anesthesia
18 or nitrous oxide analgesia is completed. It is professional misconduct

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

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1 for a dentist to fail to provide the supervision required by this
2 section, and any dentist found guilty of such misconduct under the
3 procedures prescribed in section sixty-five hundred ten of this title
4 shall be subject to the penalties prescribed in section sixty-five
5 hundred eleven of this title.

6 2. A dental hygienist shall not administer or monitor nitrous oxide
7 analgesia or local infiltration or block anesthesia in the practice of
8 dental hygiene without a dental hygiene restricted local infiltration
9 and block anesthesia/nitrous oxide analgesia certificate and except
10 under the personal supervision of a dentist authorized by law and in
11 accordance with regulations promulgated by the commissioner. Personal
12 supervision, for purposes of this section, means that the supervising
13 dentist remains in the dental office where the local infiltration or
14 block anesthesia or nitrous oxide analgesia services are being
15 performed, personally authorizes and prescribes the use of local infil-
16 tration or block anesthesia or nitrous oxide analgesia for the patient
17 and, before dismissal of the patient, personally examines the condition
18 of the patient after the use of local infiltration or block anesthesia
19 or nitrous oxide analgesia is completed. It is professional misconduct
20 for a dentist to fail to provide the supervision required by this
21 section, and any dentist found guilty of such misconduct under the
22 procedures prescribed in section sixty-five hundred ten of this title
23 shall be subject to the penalties prescribed in section sixty-five
24 hundred eleven of this title.

25 3. The commissioner shall promulgate regulations establishing stand-
26 ards and procedures for the issuance of such ~~[certificate]~~ certificates.
27 Such standards shall require completion of an educational program and/or
28 course of training or experience appropriate to each certificate suffi-
29 cient to ensure that a dental hygienist is specifically trained in the
30 administration and monitoring of nitrous oxide analgesia and local
31 infiltration anesthesia or is specifically trained in the administration
32 and monitoring of nitrous oxide analgesia, local infiltration anes-
33 thesia, and block anesthesia, the possible effects of such use, and in
34 the recognition of and response to possible emergency situations.

35 ~~[3. The]~~ A reasonable fee shall be charged for a dental hygiene
36 restricted local infiltration anesthesia/nitrous oxide analgesia certif-
37 icate ~~[shall be twenty-five dollars]~~ and a reasonable fee shall be
38 charged a dental hygiene restricted local infiltration
39 anesthesia/nitrous oxide analgesia and block anesthesia certificate and
40 shall each be paid on a triennial basis upon renewal of such certif-
41 icate. A certificate may be suspended or revoked in the same manner as a
42 license to practice dental hygiene.

43 § 2. Subdivision 1 of section 6606 of the education law, as amended by
44 chapter 239 of the laws of 2013, is amended to read as follows:

45 1. The practice of the profession of dental hygiene is defined as the
46 performance of dental services which shall include removing calcareous
47 deposits, accretions and stains from the exposed surfaces of the teeth
48 which begin at the epithelial attachment and applying topical agents
49 indicated for a complete dental prophylaxis, removing cement, placing or
50 removing rubber dam, removing sutures, placing matrix band, providing
51 patient education, applying topical medication, placing and exposing
52 diagnostic dental X-ray films, performing topical fluoride applications
53 and topical anesthetic applications, polishing teeth, taking medical
54 history, charting caries, taking impressions for study casts, placing
55 and removing temporary restorations, administering and monitoring
56 nitrous oxide analgesia and administering and monitoring local infil-

1 tration and block anesthesia, subject to certification in accordance
2 with section sixty-six hundred five-b of this article, and any other
3 function in the definition of the practice of dentistry as may be deleg-
4 ated by a licensed dentist in accordance with regulations promulgated by
5 the commissioner. The practice of dental hygiene may be conducted in the
6 office of any licensed dentist or in any appropriately equipped school
7 or public institution but must be done either under the supervision of a
8 licensed dentist or, in the case of a registered dental hygienist work-
9 ing for a hospital as defined in article twenty-eight of the public
10 health law, pursuant to a collaborative arrangement with a licensed and
11 registered dentist who has a formal relationship with the same hospital
12 in accordance with regulations promulgated by the department in consul-
13 tation with the department of health. Such collaborative arrangement
14 shall not obviate or supersede any law or regulation which requires
15 identified services to be performed under the personal supervision of a
16 dentist. When dental hygiene services are provided pursuant to a colla-
17 borative agreement, such dental hygienist shall instruct individuals to
18 visit a licensed dentist for comprehensive examination or treatment.

19 § 3. Section 6608 of the education law, as amended by 239 of the laws
20 of 2013, is amended to read as follows:

21 § 6608. Definition of practice of certified dental assisting. The
22 practice of certified dental assisting is defined as providing support-
23 ive services to a dentist in [~~his/her~~] his or her performance of dental
24 services authorized under this article. Such support shall include
25 providing patient education, taking preliminary medical histories and
26 vital signs to be reviewed by the dentist, placing and removing rubber
27 dams, selecting and prefitting provisional crowns, selecting and prefitt-
28 ing orthodontic bands, removing orthodontic arch wires and ligature
29 ties, placing and removing matrix bands, taking impressions for study
30 casts or diagnostic casts, removing periodontal dressings, placing and
31 removing temporary restorations, and such other dental supportive
32 services authorized by the dentist consistent with regulations promul-
33 gated by the commissioner, provided that such functions are performed
34 under the direct personal supervision of a licensed dentist in the
35 course of the performance of dental services. Such services shall not
36 include diagnosing and/or performing surgical procedures, irreversible
37 procedures or procedures that would alter the hard or soft tissue of the
38 oral and maxillofacial area or any other procedures determined by the
39 department. The practice of certified dental assisting may be conducted
40 in the office of any licensed dentist or in any appropriately equipped
41 school or public institution but must be done under the direct personal
42 supervision of a licensed dentist. Direct personal supervision, for
43 purposes of this section, means supervision of dental procedures based
44 on instructions given by a licensed dentist in the course of a procedure
45 who remains in the dental office where the supportive services are being
46 performed, personally diagnoses the condition to be treated, personally
47 authorizes the procedures, and before dismissal of the patient, who
48 remains the responsibility of the licensed dentist, evaluates the
49 services performed by the dental assistant. Nothing herein authorizes a
50 dental assistant to perform any of the services or functions defined as
51 part of the practice of dental hygiene in accordance with the provisions
52 of subdivision one of section sixty-six hundred six of this article,
53 except those functions authorized pursuant to this section. All dental
54 supportive services provided in this section may be performed by
55 currently registered dental hygienists either under a dentist's super-
56 vision, as defined in regulations of the commissioner, or, in the case

1 of a registered dental hygienist working for a hospital as defined in
2 article twenty-eight of the public health law, pursuant to a collabora-
3 tive arrangement with a licensed dentist in accordance with subdivision
4 one of section sixty-six hundred six of this article. Such collaborative
5 arrangement shall not obviate or supersede any law or regulation which
6 requires identified services to be performed under the personal super-
7 vision of a dentist.

8 § 4. This act shall take effect immediately; provided that sections
9 one and two of this act shall take effect one year after it shall have
10 become a law.