

# STATE OF NEW YORK

7935

## IN SENATE

March 3, 2020

Introduced by Sen. BIAGGI -- 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 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.

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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; pulpotomies 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.

1 3. A dental therapist licensed under this article is limited to prima-  
2 rily practicing in settings that serve low-income, uninsured, and under-  
3 served patients or in a dental health professional shortage area as  
4 designated by the commissioner, including a health facility or agency  
5 that is reimbursed as a federally qualified health center as defined in  
6 42 U.S.C. § 1395x(aa)(4) or a medically-underserved population as  
7 defined in 42 U.S.C. § 254b.

8 4. The commissioner shall promulgate regulations defining the func-  
9 tions a dental therapist may perform that are consistent with the train-  
10 ing and qualifications for a license as a dental therapist.

11 5. As used in this section, "general supervision" shall mean the  
12 supervision of tasks or procedures that do not require the presence of a  
13 dentist in the office or on the premises at the time the tasks or proce-  
14 dures are being performed but require the tasks be performed with the  
15 prior knowledge and consent of such dentist. As used in this section,  
16 "indirect supervision" shall mean the dentist is in the office, author-  
17 izes the procedures and remains in the office while the procedures are  
18 being performed by allied dental personnel.

19 § 6614-a. Requirements for a license as a dental therapist. To qualify  
20 for a license as a dental therapist, an applicant shall fulfill the  
21 following requirements:

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

23 2. Education: have received an education, including high school gradu-  
24 ation and a baccalaureate degree or master's degree from a dental thera-  
25 py education program, in accordance with the commissioner's regulations;

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

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

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

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

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

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

47 § 6614-b. Practice of dental therapy and use of title "dental thera-  
48 pist". Only a person licensed under section sixty-six hundred four-  
49 teen-a of this article or exempt shall practice dental therapy or use  
50 the title "dental therapist".

51 § 6614-c. Mandating continuing education for dental therapists. 1. (a)  
52 Each dental therapist licensed pursuant to sections sixty-six hundred  
53 fourteen and sixty-six hundred fourteen-a of this article and required  
54 to register triennially with the department to practice in this state  
55 shall comply with the provisions of the mandatory continuing education  
56 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 ing 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 ennial 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 ennial 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.