

STATE OF NEW YORK

819

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

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;

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

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

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

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

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

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

5 3. A dental therapist licensed under this article is limited to prima-
6 rily practicing in settings that serve low-income, uninsured, and under-
7 served patients or in a dental health professional shortage area as
8 designated by the commissioner, including a health facility or agency
9 that is reimbursed as a federally qualified health center as defined in
10 42 U.S.C. § 1395x(aa)(4) or a medically-underserved population as
11 defined in 42 U.S.C. § 254b.

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

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

23 § 6614-a. Requirements for a license as a dental therapist. To qualify
24 for a license as a dental therapist, an applicant shall fulfill the
25 following requirements:

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

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

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

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

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

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

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

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

51 § 6614-b. Practice of dental therapy and use of title "dental thera-
52 pist". Only a person licensed under section sixty-six hundred four-
53 teen-a of this article or exempt shall practice dental therapy or use
54 the title "dental therapist".

55 § 6614-c. Mandating continuing education for dental therapists. 1. (a)
56 Each dental therapist licensed pursuant to sections sixty-six hundred

1 fourteen and sixty-six hundred fourteen-a of this article and required
2 to register triennially with the department to practice in this state
3 shall comply with the provisions of the mandatory continuing education
4 requirements, except as set forth in paragraphs (b) and (c) of this
5 subdivision. Dental therapists who do not satisfy the mandatory continu-
6 ing education requirements shall not practice until they have met such
7 requirements and have been issued a registration or conditional regis-
8 tration certificate.

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

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

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

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

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

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

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

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

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

35 4. The commissioner shall promulgate regulations defining the func-
36 tions an advanced dental therapist may perform that are consistent with
37 the training and qualifications for a license as an advanced dental
38 therapist.

39 § 6615-a. Requirements for a license as an advanced dental therapist.
40 To qualify for a license as an advanced dental therapist, an applicant
41 shall fulfill the following requirements:

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

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

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

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

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

51 6. Citizenship or immigration status: be a United States citizen or an
52 alien lawfully admitted for permanent residence in the United States;
53 provided, however, that the board of regents may grant a three year
54 waiver for an alien to practice in an area which has been designated a
55 federal dental health professions shortage area, except that the board
56 of regents may grant an additional extension not to exceed six years to

1 an alien to enable him or her to secure citizenship or permanent resi-
2 dent status, provided such status is being actively pursued;

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

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

11 § 6615-b. Practice of advanced dental therapy and use of the title
12 "advanced dental therapist". Only a person licensed under section
13 sixty-six hundred fifteen-a of this article or exempt shall practice
14 advanced dental therapy or use the title "advanced dental therapist".

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

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

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

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

52 3. The department, in its discretion, may issue a conditional regis-
53 tration to a licensee who fails to meet the continuing education
54 requirements established in subdivision two of this section but who
55 agrees to make up any deficiencies and take any additional education
56 which the department may require. The fee for such a conditional regis-

1 tration shall be the same as, and in addition to, the fee for the trien-
2 ni- registration. The duration of such conditional registration shall
3 be determined by the department. Any licensee who is notified of the
4 denial of registration for failure to submit evidence, satisfactory to
5 the department, of completion of required continuing education and who
6 practices advanced dental therapy without such registration, may be
7 subject to disciplinary proceedings pursuant to section sixty-five
8 hundred ten of this title.

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

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

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

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

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

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