STATE OF NEW YORK

7402--A

2023-2024 Regular Sessions

IN ASSEMBLY

May 19, 2023

Introduced by M. of A. PEOPLES-STOKES, FAHY -- read once and referred to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to permitting certain persons to perform the application of topical fluoride varnish

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

Section 1. Section 6608 of the education law, as amended by chapter 512 of the laws of 2022, is amended to read as follows:

§ 6608. Definition of practice of registered dental assisting. The practice of registered dental assisting is defined as providing supportive services to a dentist in his or her performance of dental services authorized under this article. Such support shall include providing patient education, taking preliminary medical histories and vital signs to be reviewed by the dentist, placing and removing rubber dams, selecting and prefitting provisional crowns, selecting and prefitting orthodontic bands, removing orthodontic arch wires and ligature ties, placing and removing matrix bands, taking impressions for study casts or diagnostic casts, removing periodontal dressings, placing and removing temporary restorations, **application of topical fluoride varnish,** and such other dental supportive services authorized by the dentist consistent with regulations promulgated by the commissioner, provided that such functions are performed under the direct personal supervision of a licensed dentist in the course of the performance of dental services. Such services shall not include diagnosing and/or performing surgical procedures, irreversible procedures or procedures that would alter the hard or soft tissue of the oral and maxillofacial area or any other procedures determined by the department. The practice of registered dental assisting may be conducted in the office of any licensed dentist

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

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or in any appropriately equipped school or public institution but must be done under the direct personal supervision of a licensed dentist. Direct personal supervision, for purposes of this section, means supervision of dental procedures based on instructions given by a licensed dentist in the course of a procedure who remains in the dental office where the supportive services are being performed, personally diagnoses the condition to be treated, personally authorizes the procedures, and before dismissal of the patient, who remains the responsibility of the licensed dentist, evaluates the services performed by the registered dental assistant. Nothing herein authorizes a registered dental assistant to perform any of the services or functions defined as part of the practice of dental hygiene in accordance with the provisions of subdivision one of section sixty-six hundred six of this article, except those functions authorized pursuant to this section. All dental supportive services provided in this section may be performed by currently registered dental hygienists either under a dentist's supervision, as defined in regulations of the commissioner, or, in the case of a registered dental hygienist working for a hospital as defined in article twenty-eight of the public health law, pursuant to a collaborative arrangement with a licensed dentist in accordance with subdivision one of section sixty-six hundred six of this article. Such collaborative arrangement shall not obviate or supersede any law or regulation which requires identified services to be performed under the personal supervision of a dentist.

§ 2. Subdivision 2 of section 6902 of the education law, as amended by chapter 781 of the laws of 1990, is amended to read as follows:

2. The practice of nursing as a licensed practical nurse is defined as performing tasks and responsibilities within the framework of casefinding, health teaching, health counseling, **the application of topical fluoride varnish,** and provision of supportive and restorative care under the direction of a registered professional nurse or licensed physician, dentist or other licensed health care provider legally authorized under this title and in accordance with the commissioner's regulations.

§ 3. Section 6610 of the education law is amended by adding a new subdivision 9 to read as follows:

9. The application of topical fluoride varnish to a child's teeth by such child's parent or legal guardian, provided that such application is done under the direction and supervision of a licensed practitioner authorized to apply topical fluoride varnish. A licensed practitioner acting within their scope of practice may prescribe topical fluoride varnish for the purposes of this subdivision provided that such practitioner dispenses written safety instructions to the parent or legal guardian.

§ 4. This act shall take effect immediately; provided, however that section three of this act shall take effect eighteen months after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such date.