STATE OF NEW YORK

9089

IN ASSEMBLY

February 6, 2024

Introduced by M. of A. CLARK -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to dental laboratories

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

Section 1. Subdivision 1 of section 6611 of the education law, as amended by chapter 576 of the laws of 2001, is amended to read as follows:

1. Except upon the written dental laboratory prescription of a licensed dentist and except by the use of impressions**, including but not limited to digital intraoral scans or analog impressions,** or casts made by a licensed dentist, no dental laboratory shall furnish, supply, construct, reproduce, place, adjust, or repair any dental prosthesis, device, or appliance. A dental laboratory prescription shall be made out in duplicate. It shall contain **the registration number issued by the department and** such **other** data as may be prescribed by the commissioner's regulations. One copy shall be retained by the practitioner of dentistry for a period of one year. The other copy shall be issued to the person, firm or corporation engaged in filling dental laboratory prescriptions, who or which shall each retain and file in their respective offices or places of business their respective copies for a period of one year.

§ 2. Section 6612 of the education law, as added by chapter 332 of the laws of 1985, is amended to read as follows:

§ 6612. Identification of removable full or partial prosthetic devices. 1. Except as provided [~~herein~~] **in this section**, every dentist licensed in this state making or directing to be made a removable prosthetic denture, bridge, appliance or other structure to be used and worn as a substitute for natural teeth, shall offer to the patient for whom the prosthesis is intended the opportunity to have such prosthesis marked with the patient's name or initials. Such markings shall be accomplished at the time the prosthesis is made and the location and methods used to apply or implant them shall be determined by the dentist

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

LBD11541-01-3

or the person acting on behalf of the dentist. Such marking shall be permanent, legible and cosmetically acceptable.

2. Notwithstanding the foregoing, if in the judgment of the dentist or the [~~person~~] dental laboratory making the prosthesis, such identification is not practicable or clinically safe, the identification marks may be omitted entirely.

3. The commissioner shall adopt rules and regulations and provide standards necessary to carry out the provisions of this section.

§ 3. The education law is amended by adding three new sections 6610-a, 6614, and 6615 to read as follows:

§ 6610-a. Dental laboratories. For the purposes of sections sixty-six hundred eleven, sixty-six hundred twelve, sixty-six hundred fourteen, and sixty-six hundred fifteen of this article, the following terms shall have the following meanings:

1. "Certified dental technician" shall mean a dental laboratory technician who is certified by the national board for certification in dental laboratory technology.

2. "Prescribing dentist" shall mean a licensed dentist who issues a dental laboratory prescription or any other written or electronic instrument directing the manufacture of or work to be performed on a dental prosthesis, device, or appliance.

3. "Dental laboratory" shall mean a facility that engages in the designing, making, repairing, altering, or supplying of artificial restorations, substitutions, appliances, or materials for the correction of disease, loss, deformity, malposition, dislocation, fracture, injury to the jaws, teeth, lips, gums, cheeks, palate, or associated tissues or parts.

4. "Material content disclosure" shall mean a notice to the prescribing dentist that contains the name, physical address, and registration number of the dental laboratory that received a prescription or any other written or electronic instrument from a licensed dentist directing the manufacture of or work to be performed on a dental prosthesis, device, or appliance, and the city, state, and country of origin where the work on the prosthesis, device or appliance was performed in whole or in part or laboratories that manufactured or repaired the dental prosthesis, either directly or indirectly, and the complete material content information of all patient contact materials used in such dental prosthesis, device or appliance, including whether the United States food and drug administration cleared materials were used. Such notice must be provided in a manner that can be easily entered into a patient record.

5. "Work authorization" shall mean a written instrument by which a dental laboratory delegates to another dental laboratory to perform work on a dental prosthesis, device, or appliance, in whole or in part, as authorized by a dental laboratory prescription from a licensed dentist.

§ 6614. Dental laboratory registrations. 1. (a) Any dental laboratory operating, doing business, or intending to operate or do business in this state must register with the department in a manner acceptable to the department and in accordance with the commissioner's regulations.

(b) A dental laboratory shall be considered operating or doing business within this state if its work product is prepared for a prescribing dentist pursuant to a prescription or work authorization originating from an entity located within this state.

2. Any dental laboratory operating, doing business, or intending to operate or do business within this state must submit an application for registration of dental laboratory or renewal of registration of dental

laboratory to the department in a form provided by the department and accompanied by a registration or renewal fee as provided in this section. Applications for registration or renewals of registration must include:

(a) The name, mailing address, phone number, and email address of the dental laboratory;

(b) The physical address of the dental laboratory, if different from the mailing address of the dental laboratory;

(c) The name, mailing address, phone number, and email address of the responsible person, or, the name and license number of the supervising dentist who is licensed under this article;

(d) A statement that the dental laboratory meets accepted infection control precaution practices as established by the department of health pursuant to section two hundred thirty-a of the public health law;

(e) An acknowledgment by the responsible person or the supervising dentist that the dental laboratory will provide a material content disclosure to the prescribing dentist of all patient contact materials that contain both the manufacturer and brand name, or the United States food and drug administration registration number of all patient contact materials contained in each restoration such that the dentist may include those in the patient's record;

(f) An acknowledgment by the responsible person or the supervising dentist who is licensed in this state that he or she will disclose to the prescribing dentist the point of origin of the manufacture of the restoration. If the restoration was partially or entirely manufactured by a third-party provider, the point of origin disclosure must identify the portion manufactured by a third-party provider and the city, state, and country of the provider;

(g) Materials documenting that the applicant or one of the applicant's employees who works at least thirty hours per week in the applicant's dental laboratory:

(i) Has successfully completed at least thirty-six hours of continuing education in dental laboratory technology approved by the national board for certification in dental laboratory technology or another certifying body having certification or registration standards acceptable to the commissioner during the thirty-six months immediately preceding their application or renewal for registration, provided however, that such education must be completed by an individual who works on the laboratory premises; or

(ii) Is a certified dental technician in good standing;

(h) An acknowledgment by the responsible person or the supervising dentist that the laboratory will continuously maintain a qualified owner or employee satisfying the requirements of paragraph (g) of this section; and

(i) A registration or renewal fee, not to exceed one hundred and fifty dollars, as determined by the department.

3. Upon approval of a registration for a dental laboratory, the department shall assign the dental laboratory a registration number. Such registration number must appear on any invoice from and all other correspondence by a dental laboratory to the prescribing dentist.

4. Dental laboratory registrations shall require renewal on a triennial basis from the date of issuance. Registrations may be renewed with the department upon receipt and approval of application materials as required by subdivision two of this section.

5. (a) This section shall not apply to a dental laboratory operating under the supervision of a practicing dentist licensed under this arti-

cle in a dental office or as a part of a dental practice, provided that the laboratory does not perform work for a prescribing dentist from outside of the supervising dentist's dental practice or supervising dentist's office, or in an educational institution as part of the institution's educational program, provided that the dental laboratory does not routinely perform work for prescribing dentists from outside of the educational institution.

(b) A responsible person or employee of a dental laboratory may engage in onsite consultation with a licensed dentist during a dental procedure.

§ 6615. Nonresident dental laboratories. 1. The term "nonresident dental laboratory" shall mean any dental laboratory as defined in subdivision three of section sixty-six ten-a of this article located outside of this state which has its work product prepared pursuant to a prescription or any other written or electronic instrument from a licensed dentist or work authorization originating from an entity located within this state.

2. Any nonresident dental laboratory that ships, mails, or delivers dental prostheses, devices or appliances to any other dental laboratory, dental office, licensed dentist, and/or patient in this state pursuant to a prescription or any other written or electronic instrument from a licensed dentist or work authorization originating from an entity located within this state shall be registered with the department.

3. Each nonresident dental laboratory that ships, mails, or delivers dental prostheses, devices or appliances into this state shall designate a resident agent in this state for service of process pursuant to rule three hundred eighteen of the civil practice law and rules.

4. As a condition of registration, a nonresident dental laboratory shall comply with the following requirements:

(a) Be in good standing in the state of residence;

(b) Maintain, in readily retrievable form, records of work product shipped into this state;

(c) Supply, upon request, all information needed by the department to carry out the department's responsibilities under the laws and rules and regulations pertaining to nonresident dental laboratories;

(d) Comply with all statutory and regulatory requirements of the state where the nonresident dental laboratory is located;

(e) Apply in the manner and form prescribed by the department pursuant to the requirements of subdivision two of section sixty-six hundred fourteen of this article.

5. The commissioner may adopt such regulations as appropriate to evaluate registrations from dental laboratories that hold valid licenses, registrations, certifications or their equivalent in another state or country, provided the standards for granting licenses, registrations, or certifications to such facilities are not less than the standards required of dental laboratories otherwise registered pursuant to this section.

§ 4. This act shall take effect one year 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 effective date.