

STATE OF NEW YORK

4428

2023-2024 Regular Sessions

IN SENATE

February 8, 2023

Introduced by Sen. FERNANDEZ -- 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

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

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

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

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

52 (c) A collaborating dentist shall be licensed and practicing in New
53 York state. The collaborating dentist shall accept responsibility for
54 all services authorized and performed by the dental therapist pursuant
55 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 a
36 noncitizen lawfully admitted for permanent residence in the United
37 States; provided, however, that the board of regents may grant a three
38 year waiver for a noncitizen to practice in an area which has been
39 designated a federal dental health professions shortage area, except
40 that the board of regents may grant an additional extension not to
41 exceed six years to a noncitizen to enable him or her to secure citizen-
42 ship or permanent resident status, provided such status is being active-
43 ly pursued;

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

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

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

1 § 6614-c. Mandating continuing education for dental therapists. 1. (a)
2 Each dental therapist licensed pursuant to sections sixty-six hundred
3 fourteen and sixty-six hundred fourteen-a of this article and required
4 to register triennially with the department to practice in this state
5 shall comply with the provisions of the mandatory continuing education
6 requirements, except as set forth in paragraphs (b) and (c) of this
7 subdivision. Dental therapists who do not satisfy the mandatory continu-
8 ing education requirements shall not practice until they have met such
9 requirements and have been issued a registration or conditional regis-
10 tration certificate.

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

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

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

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

52 4. As used in this section, "acceptable formal continuing education"
53 shall mean formal programs of learning which contribute to professional
54 practice and which meet the standards prescribed by regulations of the
55 commissioner. To fulfill the mandatory continuing education requirement,

1 programs shall be taken from sponsors approved by the department, pursu-
2 ant to the regulations of the commissioner.

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

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

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

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

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

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

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

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

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

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

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

53 6. Citizenship or immigration status: be a United States citizen or a
54 noncitizen lawfully admitted for permanent residence in the United
55 States; provided, however, that the board of regents may grant a three
56 year waiver for a noncitizen to practice in an area which has been

1 designated a federal dental health professions shortage area, except
2 that the board of regents may grant an additional extension not to
3 exceed six years to a noncitizen to enable him or her to secure citizen-
4 ship or permanent resident status, provided such status is being active-
5 ly pursued;

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

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

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

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

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

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

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

55 3. The department, in its discretion, may issue a conditional regis-
56 tration to a licensee who fails to meet the continuing education

1 requirements established in subdivision two of this section but who
2 agrees to make up any deficiencies and take any additional education
3 which the department may require. The fee for such a conditional regis-
4 tration shall be the same as, and in addition to, the fee for the trien-
5 ennial registration. The duration of such conditional registration shall
6 be determined by the department. Any licensee who is notified of the
7 denial of registration for failure to submit evidence, satisfactory to
8 the department, of completion of required continuing education and who
9 practices advanced dental therapy without such registration, may be
10 subject to disciplinary proceedings pursuant to section sixty-five
11 hundred ten of this title.

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

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

22 § 4. Subdivision 2 of section 365-a of the social services law is
23 amended by adding a new paragraph (kk) to read as follows:

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

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

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