

# STATE OF NEW YORK

9308--A

## IN SENATE

May 10, 2024

Introduced by Sen. FERNANDEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to permitting dental assistants and licensed practical nurses 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:

1 Section 1. Section 6608 of the education law, as amended by chapter  
2 512 of the laws of 2022, is amended to read as follows:  
3 § 6608. Definition of practice of registered dental assisting. The  
4 practice of registered dental assisting is defined as providing support-  
5 ive services to a dentist in [~~his or her~~] such dentist's performance of  
6 dental services authorized under this article. Such support shall  
7 include providing patient education, taking preliminary medical histo-  
8 ries and vital signs to be reviewed by the dentist, placing and removing  
9 rubber dams, selecting and prefitting provisional crowns, selecting and  
10 prefitting orthodontic bands, removing orthodontic arch wires and liga-  
11 ture ties, placing and removing matrix bands, taking impressions for  
12 study casts or diagnostic casts, removing periodontal dressings, placing  
13 and removing temporary restorations, application of topical fluoride  
14 varnish, and such other dental supportive services authorized by the  
15 dentist consistent with regulations promulgated by the commissioner,  
16 provided that such functions are performed under the direct personal  
17 supervision of a licensed dentist in the course of the performance of  
18 dental services. Such services shall not include diagnosing and/or  
19 performing surgical procedures, irreversible procedures or procedures  
20 that would alter the hard or soft tissue of the oral and maxillofacial  
21 area or any other procedures determined by the department. The practice  
22 of registered dental assisting may be conducted in the office of any  
23 licensed dentist or in any appropriately equipped school or public  
24 institution but must be done under the direct personal supervision of a  
25 licensed dentist. Direct personal supervision, for purposes of this

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

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1 section, means supervision of dental procedures based on instructions  
2 given by a licensed dentist in the course of a procedure who remains in  
3 the dental office where the supportive services are being performed,  
4 personally diagnoses the condition to be treated, personally authorizes  
5 the procedures, and before dismissal of the patient, who remains the  
6 responsibility of the licensed dentist, evaluates the services performed  
7 by the registered dental assistant. Nothing herein authorizes a regis-  
8 tered dental assistant to perform any of the services or functions  
9 defined as part of the practice of dental hygiene in accordance with the  
10 provisions of subdivision one of section sixty-six hundred six of this  
11 article, except those functions authorized pursuant to this section. All  
12 dental supportive services provided in this section may be performed by  
13 currently registered dental hygienists either under a dentist's super-  
14 vision, as defined in regulations of the commissioner, or, in the case  
15 of a registered dental hygienist working for a hospital as defined in  
16 article twenty-eight of the public health law, pursuant to a collabora-  
17 tive arrangement with a licensed dentist in accordance with subdivision  
18 one of section sixty-six hundred six of this article. Such collaborative  
19 arrangement shall not obviate or supersede any law or regulation which  
20 requires identified services to be performed under the personal super-  
21 vision of a dentist.

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

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

31 § 3. This act shall take effect immediately.