

# Application to Provide Dental Health Services in a School in New York State

Bureau of Dental Health  
New York State Department of Health

## PART III: ENABLING LEGISLATION

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**Chapter 198**

**LAWS OF NEW YORK**

Schools and School Districts – Health Services – Pre-School, School Age Children

**CHAPTER 198**

An Act to authorize projects to provide improved and expanded school health services for pre-school and school-age children. Approved and effective May 31, 1978.

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

Section 1. Notwithstanding and other provision of the law, the commissioner of education, with the consent of the commissioner of health and the commissioner of social services, may authorize specified local school districts and boards of cooperative education services to conduct projects for the purpose of improving the health of the children of the districts through the utilization of the services of registered professional nurses or other health professionals licensed pursuant to title VIII of the education law (1) employed by such school districts or boards of cooperative educational services. Medical direction of each such project shall be under the general supervision of a licensed physician.

(1) Education Law § 6500 et seq.

§ 2. The health services which may be performed by such registered professional nurses in collaboration with a licensed physician shall include diagnosis of illness and performance of therapeutic and corrective measures, including issuance of controlled substances, and immunization against preventable diseases. Such nurses shall, either before or after licensure, have satisfactorily completed educational preparation for these health services in a nursing program registered by the state education department or in a program determined by the department to be equivalent. Nothing in this act shall be deemed to limit the practice of the profession of nursing as a registered professional nurse pursuant to article one hundred thirty-nine of the education law (1) or to deny any registered professional nurse the right to do any act now authorized by such article.

(1) Education Law § 6500 et seq.

§ 3. Such services may be provided to a pre-school child who resides in the area served by the school district or the board of cooperative educational services, which provides the service, or to a student who attends an elementary or secondary school located in such district or in the area served by such board of cooperative educational services. Such services may also be provided to a child who does not attend such school provided it is determined that such service are needed to enable to child to attend School.

§ 4. Projects authorized by this act shall operate for a period of not less than one and no more than six years.

§ 5. In authorizing projects under this section, the commissioner of education shall give preference to districts in which a substantial number of children lack adequate access to health services.

§ 6. The commissioner of education shall submit an annual report to the legislature, the governor and the commissioners of health and social services on the status and progress of all projects undertaken pursuant to this act, and may require such information and reports as he deems necessary from all school districts and boards of cooperative educational services conducting such projects.

§ 7. The commissioner of education shall adopt regulations concerning the administration and operation of projects pursuant to this act, the qualifications of school districts and boards of cooperative educational services, the children and students to whom such services shall be made available the services for which the written consent of the parent shall be required and the nature of such consent, the manner in which such services shall be provided, and such other matters as he may deem necessary.

§ 8. Notwithstanding any inconsistent provision of law, so long as federal funds are made available for such purposes, a social services district may, with the approval of the state commissioner of social services and the director of the budget, make payments for early and periodic screening and diagnosis, and for care and treatment of defects and conditions discovered by such screening and diagnosis, to any school district which has entered into an agreement with the state department of education to conduct projects for the purpose of improving the health of the children of the community by financing such screening, diagnosis, care and treatment through public schools. Social services districts making such payments shall be subject to state reimbursement in accordance with section three hundred sixty eight of the social services law. The commissioner of education, with the consent of the commissioner of health and the commissioner of social services, is authorized and empowered to take such steps, not inconsistent with law, as may be necessary for the purpose of procuring all of the benefits and assistance, financial and otherwise, provided or to be provided for pursuant to any act of congress, relating to or which may be available for health services authorized by this act.

§ 9. This act shall take effect immediately.

***\*This law was amended by Chapter 513 of the Laws of 2005***

§ 414. Use of schoolhouse and grounds.

1. Schoolhouses and the grounds connected therewith and all property belonging to the district shall be in the custody and under the control and supervision of the trustees or board of education of the district. The trustees or board of education may adopt reasonable regulations for the use of such schoolhouses, grounds or other property, all portions thereof, when not in use for school purposes or when the school is in use for school purposes if in the opinion of the trustees or board of education use will not be disruptive of normal school operations, for such other public purposes as are herein provided; except, however, in the city of New York each community school board shall be authorized to prohibit any use of schoolhouses and school grounds within its district which would otherwise be permitted under the provisions of this section. Such regulations shall provide for the safety and security of the pupils and shall not conflict with the provisions of this chapter and shall conform to the purposes and intent of this section and shall be subject to review on appeal to the commissioner of education as provided by law. The trustees or board of education of each district may, subject to regulations adopted as above provided, permit the use of the schoolhouse and rooms therein, and the grounds and other property of the district, when not in use for school purposes or when the school is in use for school purposes if in the opinion of the trustees or board of education use will not be disruptive of normal school operations, for any of the following purposes:

(a) For the purpose of instruction in any branch of education, learning or the arts.

(b) For public library purposes, subject to the provisions of this chapter, or as stations of public libraries.

(c) For holding social, civic and recreational meetings and entertainments, and other uses pertaining to the welfare of the community; but such meetings, entertainment and uses shall be non-exclusive and shall be open to the general public.

(d) For meetings, entertainments and occasions where admission fees are charged, when the proceeds thereof are to be expended for an educational or charitable purpose; but such use shall not be permitted if such meetings, entertainments and occasions are under the exclusive control, and the said proceeds are to be applied for the benefit of a society, association or organization of a religious sect or denomination, or of a fraternal, secret or exclusive society or organization other than organizations of veterans of the military, naval and marine service of the United States and organizations of volunteer firefighters or volunteer ambulance workers.

(e) For polling places for holding primaries and elections and for the registration of voters and for holding political meetings. But no meetings sponsored by political organizations shall be permitted unless authorized by a vote of a district meeting, held as provided by law, or, in cities by the board of education thereof. Except in cities, it shall be the duty of the trustees or board of education to call a special meeting for such purpose upon the petition of at least ten per centum of the qualified electors of the district. Authority so granted shall continue until revoked in like manner and by the same body as granted.

(f) For civic forums and community centers. Upon the petition of at least twenty-five citizens residing within the district or city, the trustees or board of education in each school district or city shall organize and conduct community centers for civic purposes, and civic forums in

the several school districts and cities, to promote and advance principles of Americanism among the residents of the state. The trustees or board of education in each school district or city, when organizing such community centers or civic forums, shall provide funds for the maintenance and support of such community centers and civic forums, and shall prescribe regulations for their conduct and supervision, provided that nothing herein contained shall prohibit the trustees of such school district or the board of education to prescribe and adopt rules and regulations to make such community centers or civic forums self-supporting as far as practicable. Such community centers and civic forums shall be at all times under the control of the trustees or board of education in each school district or city, and shall be non-exclusive and open to the general public.

(g) For classes of instruction for mentally retarded minors operated by a private organization approved by the commissioner of education.

(h) For recreation, physical training and athletics, including competitive athletic contests of children attending a private, nonprofit school.

(i) To provide child care services during non-school hours, or to provide child care services during school hours for the children of pupils attending the schools of the district and, if there is additional space available, for children of employees of the district, and, if there is further additional space available, the Cobleskill-Richmondville school district shall provide child care services for children ages three and four who need child care assistance due to lack of sufficient child care spaces. Such determination shall be made by each district's board of education, provided that the cost of such care shall not be a school district charge but shall be paid by the person responsible for the support of such child; the local social services district as authorized by law; or by any other public or private voluntary source or any combination thereof.

**(j) For licensed school-based health, dental or mental health clinics.**

**(i) For the purposes of this subdivision, the term "licensed school-based health, dental or mental health clinic" means a clinic that is located in a school facility of a school district or board of cooperative educational services, is operated by an entity other than the school district or board of cooperative educational services and will provide health, dental or mental health services during school hours and/or non-school hours to school-age and preschool children, and that is: (1) a health clinic approved under the provisions of chapter one hundred ninety-eight of the laws of nineteen hundred seventy-eight; or (2) another school-based health or dental clinic licensed by the department of health pursuant to article twenty-eight of the public health law; or (3) a school-based mental health clinic licensed or approved by the office of mental health pursuant to article thirty-one of the mental hygiene law; or (4) a school-based mental health clinic licensed by the office of mental retardation and developmental disabilities pursuant to article sixteen of the mental hygiene law.**

**(ii) Health professionals who provide services in licensed school-based health, dental or mental health clinics shall be duly licensed pursuant to the provisions of title eight of this chapter unless otherwise exempted by law and shall be authorized to provide such services to the extent permitted by their respective practice acts.**

**(iii) Except where otherwise authorized by law, the cost of providing health, dental or mental health services shall not be a charge upon the school district or board of cooperative educational services, and shall be paid from federal, state or other local funds available for such purpose. Building space used for such a clinic shall be excluded from the rated capacity of the school building for the purpose of computing building aid pursuant to subdivision six of section thirty-six hundred two of this chapter or aid pursuant to subdivision five of section nineteen hundred fifty of this chapter.**

**(iv) Nothing in this paragraph shall be construed to justify a cause of action for damages against a school district or a board of cooperative educational services by reason of acts of negligence or misconduct by a school-based health, dental or mental health clinic or such clinic's officers or employees.**

(k) For graduation exercises held by not-for-profit elementary and secondary schools, provided that no religious service is performed. The board of education in the city of New York may delegate the authority to judge the appropriateness for uses other than school purposes to community school boards.

2. The trustees or board of education shall determine the terms and conditions for such use which may include rental at least in an amount sufficient to cover all resulting expenses for the purposes of paragraphs (a), (b), (c), (d), (e), (g), (i), (j) and (k) of subdivision one of this section. Any such use, pursuant to paragraphs (a), (c), (d), (h) and (j) of subdivision one of this section, shall not allow the exclusion of any district child solely because said child is not attending a district school or not attending the district school which is sponsoring such use or on which grounds the use is to occur.

**Chapter 50**

**LAWS OF NEW YORK, 1981**

**CHAPTER 50**

**STATE PURPOSES—REGULAR MISCELLANEOUS—Cont.**

The moneys hereby appropriated are also to be available for the payment, not to exceed the amount of \$1,500 for each such payment of prior years' deficiencies for the above purposes. The comptroller is hereby authorized to pay the expenditures required but the foregoing for any State department or agency from any appropriation available to such State department of agency. To the extent that such appropriations are insufficient to accomplish the purposes required herein, the appropriation hereby made shall be allocated by the director of the budget to the various departments and agencies in the amounts necessary to pay the expenditures prescribed. ....9,281,000

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Maintenance undistributed  
For the acquisition by purchase, exchange or otherwise of passenger vehicles  
And aircraft for the various state departments, boards, commissions and  
Agencies including any costs or charges relating thereto.....6,895,000

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Maintenance undistributed  
The commissioners of education and health shall establish additional school Health projects under chapter one hundred ninety-eight of the laws of nineteen Hundred seventy-eight of the laws of nineteen hundred seventy-eight with in the amount appropriated herein. The commissioner of health is hereby authorized to waive any provisions of the public health law and regulations, to enter into contracts with article twenty-eight facilities, to provide funds, and to issue appropriate operating certificates in order to establish support and conduct projects to provide improved and expanded school health services for pre-school and school age children. No more than ten per centum of the amount appropriated for such purpose shall be expended for services and expenses in connection with the administration and evaluation of such grants. The commissioner of education, the commissioner of health, and the commissioner of social services shall enter into an interagency agreement by July 1, 1981 and subject to the approval of the director of the budget to the approval of the director of the budget to assure effective implementation of these projects. Such grants shall be distributed and administered in accordance with regulations established by the commissioner of health.....2,000,000

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## Title VIII of the Education Law

Sec. 6600. Introduction. This article applies to the professions of dentistry and dental hygiene. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

S 6601. Definition of practice of dentistry. The practice of the profession of dentistry is defined as diagnosing, treating, operating, or prescribing for any disease, pain, injury, deformity, or physical condition of the oral and maxillofacial area related to restoring and maintaining dental health. The practice of dentistry includes the prescribing and fabrication of dental prostheses and appliances. The practice of dentistry may include performing physical evaluations in conjunction with the provision of dental treatment.

S 6602. Practice of dentistry and use of title "dentist". Only a person licensed or otherwise authorized to practice under this article shall practice dentistry or use the title "dentist".

S 6603. State board for dentistry. A state board for dentistry shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than thirteen dentists licensed in this state for at least five years, not less than three dental hygienists licensed in this state for at least five years, and not less than one certified dental assistant licensed in this state for at least one year. An executive secretary to the board shall be appointed by the board of regents on recommendation of the commissioner and shall be a dentist licensed in this state.

S 6604. Requirements for a license as a dentist. To qualify for a license as a dentist, an applicant shall fulfill the following requirements:

- (1) Application: file an application with the department;
  - (2) Education: have received an education, including a doctoral degree in dentistry, in accordance with the Commissioner's regulations;
  - \* (3) Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations, provided that such experience may consist of satisfactory completion of a postdoctoral dental residency program, of at least one year's duration, in a hospital or dental facility accredited for teaching purposes by the commission on dental accreditation of the American Dental Association, provided, further, that any such residency program shall include a formal outcome assessment evaluation of the resident's competence to practice dentistry acceptable to the department;  
\*NB Repealed January 1, 2006
  - \* (3) Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations; \* NB Effective January 1, 2006
  - \* (4) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations, provided that every person pursuing the dental residency option of subdivision three of this section upon the satisfactory completion of such residency which shall include the formal outcome assessment as denoted in such subdivision, shall be deemed to have met all clinical dentistry requirements for licensure and shall not be required to take any additional clinical licensing examination; \* NB Repealed January 1, 2006
  - \* (4) Examination: pass an examination satisfactory to the board and in accordance with the commissioner's regulations; \* NB Effective January 1, 2006
  - (5) Age: be at least twenty-one years of age;
  - (6) Citizenship or immigration status: be a United States citizen or an alien lawfully admitted for permanent residence in the United States; provided, however, that the board of regents may grant a three-year waiver for an alien to practice in an area which has been designated a federal dental health professions shortage area, except that the board of regents may grant an additional extension not to exceed six years to an alien to enable him or her to secure citizenship or permanent resident status, provided such status is being actively pursued;
  - (7) Character: be of good moral character as determined by the department; and
- Fees: pay a fee of two hundred twenty dollars to the department for admission to a department conducted examination and for an initial license, a fee of one hundred fifteen dollars for each reexamination, a fee of one hundred thirty-five dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of two hundred ten dollars for each triennial registration period.

S 6604-a. Mandatory continuing education for dentists. 1. (a) Each dentist, licensed pursuant to this article, required to register triennially with the department to practice in this state shall comply with the provisions of the mandatory continuing education requirements, except as set forth in paragraphs (b) and (c) of this subdivision. Dentists who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements and have been issued a registration or conditional registration certificate. (b) Dentists shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustments to the mandatory continuing education requirement may be granted by the

department for reasons of health, certified by a physician, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance. (c) A licensed dentist not engaged in public practice as an individual practitioner, a partner of a partnership, a shareholder of a professional service corporation, or an employee of such practice units, shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the public practice of dentistry during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory continuing education requirements as shall be prescribed by regulation of the commissioner.

1. During each triennial registration period an applicant for registration shall complete a minimum of forty-five hours of acceptable formal continuing education, a maximum of fifteen hours of which may be self-instructional coursework as approved by the department. Beginning with the first registration renewal period for any dentist occurring on or after January first, two thousand two, and before the occurrence of the second registration renewal period following that date, a dentist shall have completed on a one-time basis, as part of the forty-five hours of acceptable formal continuing education required by this section, no fewer than two hours of coursework and training regarding the chemical and related effects and usage of tobacco and tobacco products and the recognition, diagnosis, and treatment of the oral health effects, including but not limited to cancers and other diseases, caused by tobacco and tobacco products, provided that any dentist who provides written proof satisfactory to the department that the dentist has completed, at any time subsequent to the effective date of this section, an approved mandatory continuing education course of not less than two hours in the same or substantially similar subject matter shall be deemed to have met this requirement, and further provided that dentists who are exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed shall also be exempt from this requirement for that period. Any dentist whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, nineteen hundred ninety-eight, shall complete continuing education hours on a prorated basis at the rate of one and one-quarter hours per month for the period beginning January first, nineteen hundred ninety-seven up to the first registration date there-after. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided in subdivision three of this section. The individual licensee shall determine the selection of courses or programs of study pursuant to subdivision four of this section.
3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and take any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The department shall determine the duration of such conditional registration. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of completion of required continuing education and who practices dentistry without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.
4. As used in this section, "acceptable formal continuing education" shall mean formal programs of learning which contribute to professional practice and which meet the standards prescribed by regulations of the commissioner. To fulfill the mandatory continuing education requirement, programs must be taken from sponsors having at least one full-time employee and the facilities, equipment, and financial and physical resources to provide continuing education courses, approved by the department, pursuant to the regulations of the commissioner.

#### S 6605. Limited permits.

1. On recommendation of the board, the department may issue a limited permit to a graduate of a dental college who meets the educational qualifications for admission to the licensing examination in dentistry for employment in a hospital or dental facility approved by an appropriate agency, while under the direction or supervision of a licensed dentist. No such permit shall be issued or renewed unless such graduate has a bona fide offer of a position in such a hospital or dental facility.

2. On recommendation of the board, the department may issue a limited permit for instructing in dentistry to a dentist not licensed under this article to be employed by a registered school of dentistry or dental hygiene to instruct and supervise clinical dentistry or dental hygiene for students in such a registered school in the state, and in so doing to practice dentistry as defined in this article, but only on the premises of such registered school or such other premises as may be used for instruction in the program of education conducted by such institution. No person shall be permitted or authorized to instruct and supervise clinical dentistry for students unless such person is licensed in this state or holds the foregoing limited permit for instructing in dentistry.

3. The holder of a limited permit under this section may practice dentistry, as defined in this article, but only in the performance of duties required by the position for which the limited permit is issued. Nothing in this section shall be construed to authorize such unlicensed dentist to engage in the private practice of dentistry.

4. A limited permit under this section shall be valid for one year or until ten days after notification of denial of an application for license. A limited permit may be renewed for one year, except if the applicant is serving in a residency

program in a hospital or school of dentistry in this state. A limited permit may be renewed annually for the duration of such residency program. The fee for each limited permit and for each renewal shall be one hundred five dollars.

S 6605-a. Dental anesthesia certificate. 1. A licensed dentist shall not employ conscious sedation, deep sedation or general anesthesia in the practice of dentistry, at any location other than a general hospital, without a dental anesthesia certificate issued by the department.

2. The commissioner shall promulgate regulations, establishing standards and procedures for the issuance of certificates. Such standards shall require completion of an educational program and/or course of training or experience sufficient to ensure that a dentist is specifically trained in the use and administration of conscious sedation, deep sedation or general anesthesia and in the possible effects of such use, and in the recognition of and response to possible emergency situations. Such regulations may also establish standards and safeguards for the use of conscious sedation, deep sedation or general anesthesia.

3. Nothing in this section shall limit a dentist's use of local anesthesia, a dentist's use of nitrous oxide, or a dentist's use of any other substance or agent for a purpose other than achieving deep sedation, conscious sedation, or general anesthesia.

4. The fee for a dental anesthesia certificate shall be one hundred dollars and shall be paid on a triennial basis upon renewal of such certificate. A certificate may be suspended or revoked in the same manner as a license to practice dentistry.

\* S 6605-b. Dental hygiene restricted local infiltration anesthesia/nitrous oxide analgesia certificate. 1. A dental hygienist shall not administer or monitor nitrous oxide analgesia or local infiltration anesthesia in the practice of dental hygiene without a dental hygiene restricted local infiltration anesthesia/nitrous oxide analgesia certificate and except under the personal supervision of a dentist and in conjunction with the performance of dental hygiene procedures authorized by law and in accordance with regulations promulgated by the commissioner. Personal supervision, for purposes of this section, means that the supervising dentist remains in the dental office where the local infiltration anesthesia or nitrous oxide analgesia services are being performed, personally authorizes and prescribes the use of local infiltration anesthesia or nitrous oxide analgesia for the patient and, before dismissal of the patient, personally examines the condition of the patient after the use of local infiltration anesthesia or nitrous oxide analgesia is completed. It is professional misconduct for a dentist to fail to provide the supervision required by this section, and any dentist found guilty of such misconduct under the procedures prescribed in section sixty-five hundred ten of this title shall be subject to the penalties prescribed in section sixty-five hundred eleven of this title.

2. The commissioner shall promulgate regulations establishing standards and procedures for the issuance of such certificate. Such standards shall require completion of an educational program and/or course of training or experience sufficient to ensure that a dental hygienist is specifically trained in the administration and monitoring of nitrous oxide analgesia and local infiltration anesthesia, the possible effects of such use, and in the recognition of and response to possible emergency situations.

3. The fee for a dental hygiene restricted local infiltration anesthesia/nitrous oxide analgesia certificate shall be twenty-five dollars and shall be paid on a triennial basis upon renewal of such certificate. A certificate may be suspended or revoked in the same manner as a license to practice dental hygiene.

\* NB Effective May 7, 2003

S 6606. Definition of practice of dental hygiene. \* 1. The practice of the profession of dental hygiene is defined as the performance of dental services which shall include removing calcareous deposits, accretions and stains from the exposed surfaces of the teeth which begin at the epithelial attachment and applying topical agents indicated for a complete dental prophylaxis, removing cement, placing or removing rubber dam, removing sutures, placing matrix band, providing patient education, applying topical medication, placing and exposing X-ray films, performing topical fluoride applications and topical anesthetic applications, polishing teeth, taking medical history, charting caries, taking impressions for study casts, placing and removing temporary restorations, and any other function in the definition of the practice of dentistry as may be delegated by a licensed dentist in accordance with regulations promulgated by the commissioner. The practice of dental hygiene may be conducted in the office of any licensed dentist or in any appropriately equipped school or public institution but must be done under the supervision of a licensed dentist.

\* NB Effective until May 7, 2003

\* 1. The practice of the profession of dental hygiene is defined as the performance of dental services which shall include removing calcareous deposits, accretions and stains from the exposed surfaces of the teeth which begin at the epithelial attachment and applying topical agents indicated for a complete dental prophylaxis, removing cement, placing or removing rubber dam, removing sutures, placing matrix band, providing patient education, applying topical medication, placing and exposing X-ray films, performing topical fluoride applications and topical anesthetic applications, polishing teeth, taking medical history, charting caries, taking impressions for study casts, placing and removing temporary restorations, administering and monitoring nitrous oxide analgesia and administering and monitoring local infiltration anesthesia, subject to certification in accordance with section sixty-six hundred five-b of this article, and any other function in the definition of the practice of dentistry as may be delegated by a licensed dentist in accordance with regulations promulgated by the commissioner. The practice of dental hygiene may be conducted in the office of any licensed dentist or in any appropriately equipped school or public institution but must be done under the supervision

of a licensed dentist.

\* NB Effective May 7, 2003

2. The commissioner shall promulgate regulations defining the functions a dental hygienist may perform that are consistent with the training and qualifications for a license as a dental hygienist.

S 6607. Practice of dental hygiene and use of title "dental hygienist". Only a person licensed under section sixty-six hundred nine of this article or exempt shall practice dental hygiene or use the title "dental hygienist".

S 6608. Definition of practice of certified dental assisting. The practice of certified dental assisting is defined as providing supportive services to a dentist in his/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, and such other dental supportive services authorized in 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. The practice of certified dental assisting may be conducted in the office of any licensed dentist 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, evaluates the services performed by the dental assistant. Nothing herein authorizes a 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 under a dentist's supervision, as defined in regulations of the commissioner.

S 6608-a. Practice of certified dental assisting and use of title "certified dental assistant". Only a person certified under section sixty-six hundred eight-b of this article or exempt pursuant to section sixty-six hundred ten of this article shall practice certified dental assisting. Only a person certified pursuant to section sixty-six hundred eight-b of this article shall use the title "certified dental assistant".

S 6608-b. Requirements for certification as a certified dental assistant. To qualify for certification as a certified dental assistant, an applicant shall fulfill the following requirements:

- (1) Application: file an application with the department;
- (2) Age: be at least seventeen years of age;
- (3) Fees: pay a fee of forty-five dollars to the department for initial certification and a fee of fifty dollars for each triennial registration period;
- (4) Education and experience: (A) have received a high school diploma, or its equivalent, and (B) have successfully completed, in accordance with the commissioner's regulations, (i) an approved one-year course of study in dental assisting in a degree-granting institution or a board of cooperative educational services program which includes at least two hundred hours of clinical experience, or an equivalent approved course of study in dental assisting in a non-degree granting institution or (ii) an alternate course of study in dental assisting acceptable to the department which includes at least one thousand hours of relevant work experience; and
- (5) Examination: pass an examination given by an organization which administers examinations for certifying dental assistants and which is acceptable to the department.

S 6608-c. Exempt persons. Nothing in this article shall be construed to affect or prevent a student from engaging in any procedure authorized under section sixty-six hundred eight of this article in clinical practice as part of a course of study approved by the department pursuant to subdivision four of section sixty-six hundred eight-b of this article.

S 6608-d. Limited permits. The department shall issue a limited permit to an applicant who meets all requirements for admission to the licensing examination. All practice under a limited permit shall be under the direct personal supervision of a licensed dentist. Limited permits shall be for one year and may be renewed at the discretion of the department for one additional year. The fee for each limited permit and for each renewal shall be forty dollars.

S 6609. Requirements for a license as a dental hygienist. To qualify for a license as a dental hygienist, an applicant shall fulfill the following requirements:

- (1) Application: file an application with the department;
- (2) Education: have received an education, including high school graduation and completion of a program in dental hygiene, in accordance with the commissioner's regulations;
- (3) Experience: have experience satisfactory to the board and in accordance with the commissioner's regulations;

- (5) Age: be at least seventeen years of age;
- (6) Citizenship or immigration status: be a United States citizen or an alien lawfully admitted for permanent residence in the United States; provided, however, that the board of regents may grant a three year waiver for an alien to practice in an area which has been designated a federal dental health professions shortage area, except that the board of regents may grant an additional extension not to exceed six years to an alien to enable him or her to secure citizenship or permanent resident status, provided such status is being actively pursued;
- (7) Character: be of good moral character as determined by the department; and
- (8) Fees: pay a fee of one hundred fifteen dollars to the department for admission to a department conducted examination and for an initial license, a fee of fifty dollars for each reexamination, a fee of seventy dollars for an initial license for persons not requiring admission to a department conducted examination, and a fee of fifty dollars for each triennial registration period.

S 6609-a. Mandatory continuing education for dental hygienists. 1. (A) Each dental hygienist, licensed pursuant to this article and required to register triennially with the department to practice in this state shall comply with the provisions of the mandatory continuing education requirements, except as set forth in paragraphs (B) and (C) of this subdivision. Dental hygienists who do not satisfy the mandatory continuing education requirements shall not practice until they have met such requirements and have been issued a registration or conditional registration certificate.

(B) Dental hygienists shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accordance with the intent of this section, adjustments to the mandatory continuing education requirement may be granted by the department for reasons of health, certified by a physician, for extended active duty with the Armed Forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

(C) A licensed dental hygienist not engaged in the practice of dental hygiene shall be exempt from the mandatory continuing education requirement upon the filing of a statement with the department declaring such status. Any licensee who returns to the practice of dental hygiene during the triennial registration period shall notify the department prior to reentering the profession and shall meet such mandatory continuing education requirements as shall be prescribed by regulation of the commissioner.

2. During each triennial registration period an applicant for registration shall complete a minimum of twenty-four hours of acceptable formal continuing education including currently mandated child abuse reporting instruction and infection control training as approved by the department. Of these twenty-four hours a maximum of ten hours may be self-instructional coursework as approved by the department. Any dental hygienist whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, nineteen hundred ninety-eight, shall complete continuing education hours on a prorated basis at the rate of one and one-quarter hours per month for the period beginning January first, nineteen hundred ninety-seven up to the first registration date thereafter. A licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided in subdivision three of this section. The individual licensee shall determine the selection of courses or programs of study pursuant to subdivision four of this section.

3. The department, in its discretion, may issue a conditional registration to a licensee who fails to meet the continuing education requirements established in subdivision two of this section but who agrees to make up any deficiencies and take any additional education which the department may require. The fee for such a conditional registration shall be the same as, and in addition to, the fee for the triennial registration. The department shall determine the duration of such conditional registration. Any licensee who is notified of the denial of registration for failure to submit evidence, satisfactory to the department, of completion of required continuing education and who practices dental hygiene without such registration, may be subject to disciplinary proceedings pursuant to section sixty-five hundred ten of this title.

4. As used in this section, "acceptable formal continuing education" shall mean formal programs of learning which contribute to professional practice and which meet the standards prescribed by regulations of the commissioner. To fulfill the mandatory continuing education requirement, programs must be taken from sponsors approved by the department, pursuant to the regulations of the commissioner

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

S 6610. Exempt persons. Nothing in this article shall be construed to affect or prevent:

- 1. An unlicensed person from performing solely mechanical work upon inert matter in a dental office or on a dental laboratory prescription of a dentist holding a license or limited permit;
- 2. A student from engaging in clinical practice as part of a registered program operated by a school of dentistry under supervision of a dentist holding a license or limited permit for instructing in dentistry in a school of dentistry;
- 3. A student from engaging in any procedure authorized under section sixty-six hundred six of this article in clinical practice as part of a registered program in dental hygiene under supervision of a dentist holding a license or a limited permit for instructing in dentistry in a school of dental hygiene;
- 4. An employee of a federal agency from using the title of and practicing as a dentist or dental hygienist insofar as such activities are required by his salaried position;

5. A dentist or a dental hygienist licensed in some other state or country from making a teaching clinical demonstration before a regularly organized dental or medical society or group, or from meeting licensed dentists in this state for consultation, provided such activities are limited to such demonstration or consultation.

6. A dentist licensed in another state or country who is employed on a full-time basis by a registered dental school as a faculty member with the rank of assistant professor or higher from conducting research and clinical demonstrations as a part of such employment, under the supervision of a licensed dentist and on the premises of the school. No fee may be charged for the practice of dentistry authorized by this subdivision.

7. A dentist licensed in another state or country who is visiting an approved dental school to receive dental instruction for a period not to exceed ninety days from engaging in clinical practice, provided such practice is limited to such instruction and is under the direct supervision of a licensed dentist.

8. Any student matriculated in an accredited dental school located outside New York State from engaging in appropriately supervised clinical practice as part of the school's dental program in a teaching hospital that has a teaching affiliation agreement with the student's dental school.

S 6611. Special provisions. 1. Except upon the written dental laboratory prescription of a licensed dentist and except by the use of 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 such data as may be prescribed by the commissioner's regulations. The practitioner of dentistry shall retain one copy 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 should each retain and file in their respective offices or places of business their respective copies for a period of one year.

2. The department is empowered to inspect and to have access to all places, including the office or offices of a licensed dentist, where copies of dental laboratory prescriptions issued by him are retained as required by this section, and to all places where dental laboratory prescriptions are filled or to any workroom or workrooms in which prosthetic restorations, prosthetic dentures, bridges, orthodontic or other appliances or structures to be used as substitutes for natural teeth or tissue or for the correction of malocclusion or deformities are made, repaired or altered, with power to subpoena and examine records of dental laboratory prescriptions. A person who fails to grant access to such places or who fails to maintain prescriptions as required by this section shall be guilty of a class A misdemeanor.

3. The department may arrange for the conduct of clinical examinations in the clinic of any school of dentistry or dental hygiene within or outside the state for dental or dental hygiene candidates.

4. A not-for-profit dental or medical expense indemnity corporation or hospital service corporation organized under the insurance law or pursuant to special legislation may enter into contracts with dentists or partnerships of dentists to provide dental care on its behalf for persons insured under its contracts or policies.

5. Legally incorporated dental corporations existing and in operation prior to January first, nineteen hundred sixteen, may continue to operate through licensed dentists while conforming to the provisions of this title. Any such corporation, which shall be dissolved, or cease to exist or operate for any reason whatsoever shall not be permitted to resume operations. No such corporation shall change its name or sell its franchise or transfer its corporate rights directly or indirectly, by transfer of capital stock control or otherwise, to any person or to another corporation without permission from the department, and any corporation so changing its name or so transferring its franchise or corporate rights without such permission shall be deemed to have forfeited its rights to exist and may be dissolved by an action brought by the attorney general.

6. Notwithstanding any inconsistent provision of any general, special or local law, any licensed dentist who voluntarily and without the expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or other emergency, outside of a hospital or any other place having proper and necessary medical equipment, to a person who is unconscious, ill or injured shall not be liable for damages for injuries alleged to have been sustained by such person or for damages for the death of such person alleged to have occurred by reason of an act or omission in the rendering of such first aid or emergency treatment unless it is established that such injuries were or such death was caused by gross negligence on the part of such dentist. Nothing in this subdivision shall be deemed or construed to relieve a licensed dentist from liability for damages for injuries or death caused by an act or omission on the part of a dentist while rendering professional services in the normal and ordinary course of practice.

7. Any dentist or dental hygienist, who in the performance of dental services, x-rays the mouth or teeth of a patient shall during the performance of such x-rays shield the torso area of such patient including but not limited to the gonads and other reproductive organs with a lead apron or other similar protective garment or device.

8. An unlicensed person may provide supportive services to a dentist incidental to and concurrent with such dentist personally performing a service or procedure. Nothing in this subdivision shall be construed to allow an unlicensed person to provide any service which constitutes the practice of dentistry or dental hygiene as defined in this article.

9. There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any person, partnership, corporation, firm, society, or other entity on account of the communication of information in the possession of such person or entity, or on account of any recommendation or evaluation, regarding the qualifications, fitness, or professional conduct or practices of a dentist, to any governmental agency, dental or specialists society, or hospital as defined in article twenty-eight of the public health law. The foregoing shall not apply to information which is untrue and communicated with malicious intent.

S 6612. Identification of removable full or partial prosthetic devices.

1. Except as provided herein, 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 the dentist or the person acting on behalf of the dentist shall determine methods used to apply or implant them. Such marking shall be permanent, legible and cosmetically acceptable.

2. Notwithstanding the foregoing, if in the judgment of the dentist or the person 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.

\* S 6613. Nitrous oxide equipment. Any machine used in a dental office for the administration of nitrous oxide to a patient shall be equipped with a scavenging system that appropriately minimizes leakage of nitrous oxide.

\* NB Effective May 7, 2003