ASSEMBLY, No. 5656



STATE OF NEW JERSEY

220th LEGISLATURE



INTRODUCED JUNE 26, 2023

Sponsored by:

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

SYNOPSIS

 Provides for regulation of dental therapists.

CURRENT VERSION OF TEXT

 As introduced.



An Act concerning the regulation of dental therapists, amending and supplementing P.L.1938, c.277 (C.45:6-1 et seq.), and supplementing Title 30 of the Revised Statutes.

 Be It Enacted by the Senate and General Assembly of the State of New Jersey:

 1. Section 3 of P.L.1938, c.277 (C.45:6-1) is amended to read as follows:

 3. The State Board of Registration and Examination in Dentistry in the Division of Professional Boards of the Department of Law and Public Safety, hereinafter in this chapter designated as the "board," created and established by an act entitled "An act to regulate the practice of dentistry in the State of New Jersey, and to repeal certain acts now relating to the same," approved March 31, 1915 (L.1915, c. 146, p. 261), as amended and supplemented, is continued, and shall hereafter be known and designated as the New Jersey State Board of Dentistry. Wherever in any law, rule, regulation, judicial or administrative proceeding or otherwise, reference is made to the State Board of Registration and Examination in Dentistry, the same shall mean and refer to the New Jersey State Board of Dentistry.

 In addition to two public members, the board shall consist of **[**nine**]** ten members, eight of whom shall have resided and practiced dentistry in this State for at least 10 years each immediately preceding their appointments **[**and**]** , one of whom shall be a dental hygienist appointed by the Governor for a term of 4 years , and one of whom shall be a dental therapist appointed by the Governor. In appointing such dental hygienist and dental therapist, the Governor shall give due consideration to, but shall not be bound by, the recommendation of the New Jersey Dental Hygienists Association. Upon the expiration of the term of office of any member, his successor shall be appointed by the Governor, subject to the provisions of section 45:1-2 of this Title, for a term of 4 years, except that the successors of the members whose terms will expire on June 4, 1949, shall be appointed each for a term expiring on August 31, 1952; the successors of the members whose terms will expire on November 9, 1949, and January 7, 1950, respectively, shall be appointed each for a term expiring on August 31, 1953; the successors of the members whose terms will expire on July 31, 1950, and October 8, 1950, respectively, shall be appointed each for a term expiring on August 31, 1954; and the successors of the members whose terms will expire on July 30, 1951, and November 4, 1951, respectively, shall be appointed each for a term expiring on August 31, 1955. Each member shall hold his office until his successor is appointed and qualifies. Any vacancy in the membership of the board, occurring from any cause, shall be filled by the Governor for the unexpired term only. Upon cause being shown before him, the Governor may remove a member from office upon proven charges of inefficiency, incompetency, immorality or professional misconduct.

(cf: P.L.1979, c.46, s.22)

 2. Section 7 of P.L.1951, c.199 (C.45:6-15.7) is amended to read as follows:

 7. In every dental clinic operated, conducted or maintained in this State all dental operations shall be performed by a licensed dentist **[**or**]** , licensed hygienist, or licensed dental therapist in accordance with the provisions of Title 45, chapter six of the Revised Statutes.

(cf: P.L.1951, c.199, s.7)

 3. Section 2 of P.L.1979, c.46 (C.45:6-49) is amended to read as follows:

 2. For the purposes of this act:

 a. "Board" means the New Jersey State Board of Dentistry.

 b. "Registered dental assistant" means any person who has fulfilled the requirements for registration established by **[**this act**]** P.L.1979, c.46 (C.45:6-48 et seq.) and who has been registered by the board. A registered dental assistant shall work under the direct supervision of a licensed dentist.

 c. "Dental assistant" means any person who is trained by formal education or office internship to perform, under the direct supervision of a dentist, any routine office procedure, not including an intra-oral procedure, in the office of a dentist.

 d. "Dental hygienist" means any person who performs in the office of any licensed dentist or in any appropriately equipped school, dental clinic, or institution under the supervision of a licensed dentist, those educational, preventive and therapeutic services and procedures which licensed dental hygienists are trained to perform, and which are specifically permitted by regulation of the board, and such intra-oral clinical services which are primarily concerned with preventive dental procedures, including, but not limited to, during the course of a complete prophylaxis, removing all hard and soft deposits and stains from the surfaces of the human teeth to the depth of the gingival sulcus, polishing natural and restored surfaces of teeth, applying indicated topical agents, surveying intra- and extra-oral structures, noting deformities, defects and abnormalities thereof, performing a complete oral prophylaxis and providing clinical instruction to promote the maintenance of dental health.

 e. "Direct supervision" means acts performed in the office of a licensed dentist wherein he is physically present at all times during the performance of such acts and such acts are performed pursuant to his order, control and full professional responsibility.

 f. "Supervision" means acts performed pursuant to a dentist's written order, control and full professional responsibility, whether or not he is physically present.

 g. "Limited registered dental assistant" means any person who has fulfilled the requirements for registration established by this amendatory and supplementary act and who has been registered by the board. A limited registered dental assistant shall be limited to working under the direct supervision of a dentist who conducts a limited dental practice in the dental specialty for which the assistant has been trained and registered, and in performing those intra-oral procedures as defined by the board which are involved in that specialty.

 h. "Dental clinic" means dental clinic as defined in section 1 of P.L.1951, c.199 (C.45:6-15.1).

 i. "Institution" means any nursing home, veterans' home, hospital or prison, or any State or county facility providing inpatient care, supervision and treatment for persons with developmental disabilities.

 j. “Dental therapist” means an individual licensed to provide dental therapy services set forth in section 14 of P.L. , c. (C. ) (pending before the Legislature as this bill).

(cf: P.L.2012, c.29, s.1)

 4. Section 3 of P.L.1979, c.46 (C.45:6-50) is amended to read as follows:

 3. The board shall have the following additional powers and duties, under this act:

 a. To examine, admit, and deny persons applying for admission to the practice of dental hygiene and dental therapy;

 b. To issue licenses to practice dental hygiene and dental therapy;

 c. To certify academic and clinical institutions and hospitals which educate and train persons for the practice of dental hygiene **[**or**]** , dental assisting, or dental therapy in accordance with standards substantially similar to those of the American Dental Association's Commission on Accreditation of Dental and Dental Auxiliary Educational Programs and Council on Hospital Dental Service and taking into consideration the advice of the New Jersey Commission on Higher Education and the New Jersey Department of Education;

 d. To issue certificates of good standing to dental hygienists and dental therapists who hold a valid subsisting license to practice in this State;

 e. To establish by rule or regulation, standards for the training and utilization of registered dental assistants and limited registered dental assistants;

 f. To establish and recognize councils and committees which may advise and make recommendations to the board on various aspects of the education and practice for dental hygienists, registered dental assistants, limited registered dental assistants or dental assistants , or dental therapists;

 g. To prescribe expanded functions to be performed solely by dental hygienists and to be performed by dental hygienists, registered dental assistants **[**and**]** , limited registered dental assistants , and dental therapists under a single standard of proficiency necessary and proper to protect and promote the public health and welfare of the citizens of this State, and impose such restrictions and requirements, including the setting of educational prerequisites to the performance of such functions and the administration of examinations, as are necessary to insure adherence to the adopted standard of proficiency. Expansion and assignment of such functions, training and examination procedures shall be developed in consultation with the relevant advisory councils;

 h. To adopt rules and regulations to achieve the objectives contemplated by **[**this act**]** P.L.1979, c.46 (C.45:6-48 et seq.) and P.L. , c. (C. ) (pending before the Legislature as this bill), pursuant to the Administrative Procedure Act, P.L.1968, and c.410 (C.52:14B-1 et seq.);

 i. To do any and all other things which may be appropriate to achieve the objectives contemplated by this act, or which may be useful in executing any of the duties, powers or functions of the board.

(cf: P.L.1995, c.367, s.2)

 5. Section 4 of P.L.1979, c.46 (C.45:6-51) is amended to read as follows:

 4. The board shall hold at least two meetings annually at which they will examine and license persons to practice dental hygiene and dental therapy.

(cf: P.L.1979, c.46, s.4)

 6. Section 9 of P.L.1979, c.46 (C.45:6-56) is amended to read as follows:

 9. a. Every two years, at the time of license renewal, each person licensed to practice dental hygiene or dental therapy in this State shall provide the board with a certified statement, upon a form issued and distributed by the board, that such licensed person has attended, or participated in not less than 20 hours of continuing education in dental hygiene or dental therapy as follows: lectures or study club sessions dealing with clinical subjects, college post-graduate courses, scientific sessions of conventions, research on clinical subjects, service as a clinician or any other such evidence of continuing education which the board may approve.

 (2) Every two years, at the time of registration renewal, each person registered as a registered dental assistant or limited registered dental assistant in this State shall provide the board with a certified statement, upon a form issued and distributed by the board, that such registered person has attended, or participated in not less than 10 hours of continuing education in dental assisting as follows: lectures or study club sessions dealing with clinical subjects, college post-graduate courses, scientific sessions of conventions, research on clinical subjects, service as a clinician or any other such evidence of continuing education which the board may approve.

 b. The board shall notify each licensed or registered person of any failure to comply with this requirement, and shall further notify said person that upon continued failure to comply for a period of three months from the date of notice, the board may, at its discretion take action pursuant to section 11 of this act.

 c. The board, in its discretion, may waive any of the requirements of this section in cases of certified illness or undue hardship to be determined on an individual basis.

(cf: P.L.2005, c.5, s.1)

 7. Section 3 of P.L.1988, c.31 (C.45:6-57.1) is amended to read as follows:

 3. A licensed dental hygienist or licensed dental therapist may apply to the board for inactive license status on a form furnished by the board. Upon receipt of the completed inactive status application form the board shall place the licensee on an inactive status list. While on the list, the person shall pay an inactive license renewal fee in an amount prescribed by the board and shall not practice dental hygiene or dental therapy within the State.

 A person on the inactive status list who wants to resume the practice of dental hygiene or dental therapy shall apply to the board for a current biennial certificate of registration and shall pay the prescribed registration fee. Any person who has been on the inactive status list for five or more years shall furnish the board with satisfactory evidence of current knowledge and skill in the practice of dental hygiene or dental therapy as required by regulation of the board.

(cf: P.L.1988, c.31, s.3)

 8. Section 11 of P.L.1979, c.46 (C.45:6-58) is amended to read as follows:

 11. Any person practicing dental hygiene or dental therapy in this State without first having obtained a license as provided by **[**this act**]** section 11 of P.L.1979, c.46 (C.45:6-58) or section 12 of P.L. , c. (C. ) (pending before the Legislature as this bill), or without the current biennial certificate of registration, or contrary to any of the provisions of this act, or any person who fails to comply with the provisions of section 9 of P.L.1979, c.46 (C.45:6-56), except a person on the inactive status list, or who practices dental hygiene or dental therapy, or works as a registered dental assistant or limited registered dental assistant under a false or assumed name, or buys, sells or fraudulently obtains a diploma or certificate showing or purporting to show graduation or completion of a course in dental hygiene **[**or**]**, dental assisting, or dental therapy, or who violates any of the provisions of this act, shall be liable to a penalty of $300.00 for the first offense and of $500.00 for the second and each subsequent offense.

(cf: P.L.1995, c.367, s.5)

 9. Section 13 of P.L.1979, c.46 (C.45:6-60) is amended to read as follows:

 13. Any person, company or association who commits any of the following acts is a disorderly person, and upon every conviction thereof shall be subject to a fine of not less than $300.00 nor more than $500.00 or by imprisonment for not less than 30 days nor more than 90 days, or by both such fine and imprisonment:

 a. Selling or bartering, or offering to sell or barter, any diploma or document showing or purporting to show graduation as a dental hygienist **[**or**]** , dental assistant , or dental therapist;

 b. Purchasing or procuring by barter any such diploma, certificate or transcript with intent that it be used as evidence of the qualifications of the holder to practice dental hygiene or dental therapy, or work as a registered dental assistant or limited registered dental assistant, or in fraud of the laws regulating such practice or work;

 c. With fraudulent intent, altering in a material regard, such diploma, certificate or transcript;

 d. Using or attempting to use such diploma, certificate or transcript which has been purchased, fraudulently issued, and counterfeited or materially altered, either as a license or registration or color of license or registration to practice dental hygiene or dental therapy, or work as a registered dental assistant or limited registered dental assistant, or in order to procure registration as a dental hygienist or dental therapist; or

 e. In any affidavit or examination required of an applicant for examination, license or registration under the laws regulating the practice of dental hygiene or dental assisting, willfully making a false statement in a material regard, or impersonating another applicant at an examination.

(cf: P.L.1995, c.367, s.7)

 10. Section 14 of P.L.1979, c.46 (C.45:6-61) is amended to read as follows:

 14. Any licensed dentist who shall permit any unlicensed or unregistered person to practice dental hygiene or work as a registered dental assistant or limited registered dental assistant under his direction or control or shall permit or direct a licensed dental hygienist, registered dental assistant or limited registered dental assistant to perform any act not authorized in this act, or who enters into a written collaborative agreement pursuant to section 15 of P.L. , c. (C. ) (pending before the Legislature as this bill) with an unlicensed dental therapist shall be guilty of a violation of this act and of conduct constituting willful and gross malpractice or willful and gross neglect in the practice of dentistry.

(cf: P.L.1995, c.367, s.8)

 11. Section 6 of P.L.2012, c.29 (C.45:6-73) is amended to read as follows:

 6. Except as otherwise provided in P.L.1964, c.186 (C.45:6-16.1 et seq.), R.S.45:6-19 **[**and**]**, R.S.45:6-20, and section 18 of P.L. , c. (C. ) (pending before the Legislature as this bill), no person other than a person duly licensed to practice dentistry in this State shall:

 a. make any diagnosis or develop any treatment plan with respect to the dental condition or treatment of any living person in this State;

 b. perform any surgical or irreversible procedure, including, but not limited to, the cutting of hard or soft tissue or the extraction of any tooth on any living person in this State;

 c. either bill or submit a claim for any service rendered involving the practice of dentistry or dental hygiene in this State; or

 d. receive payment for the performance of dental or dental hygienist services from any source other than an employer authorized by law to practice dentistry in this State or any dental clinic, institution, or employment agency, as defined pursuant to section 1 of P.L.1989, c.331 (C.34:8-43), that employs licensed dental hygienists to provide temporary dental hygiene services.

(cf: P.L.2012, c.29, s.6)

 12. (New section) a. The board shall issue a license to practice dental therapy to an applicant who:

 (1) submits an application and license fee in the manner prescribed by the board;

 (a) the application shall require demonstration of proof that the applicant is at least 18 years of age; and

 (b) the applicant is to submit proof, as stipulated by the board in the application, of good moral character;

 (2) is a graduate of a dental therapy education program that is accredited by the Commission on Dental Accreditation or any other dental accrediting entity recognized by the United States Department of Education;

 (3) has demonstrated clinical competency to provide dental therapy services through at least one of the following methods:

 (a) graduation from an accredited, competency-based dental therapy education program that includes supervised clinical practice and requires demonstration of clinical competency prior to graduation, as determined by the board; or

 (b) passing a clinical licensing examination administered by a board-approved regional or national dental testing service or another examination approved by the board; and

 (4) has successfully completed a written examination on the laws and rules of this State relating to the practice of dental therapy.

 b. All persons who meet the requirements of this section shall be registered by the board as licensed dental therapists, and shall be issued licenses to practice dental therapy under the seal and hand of the president and secretary of the board.

 13. (New section) Every person licensed to practice dental therapy shall biennially apply, on a form furnished by the board, for a certificate of registration, which shall be issued by the secretary of the board upon payment of a fee as determined by the board. The certificate of registration shall be displayed in the office or place in which the holder thereof practices dental therapy. Where a dental therapist practices dental therapy at more than one office or place, a duplicate registration certificate shall be issued upon the payment of an additional fee as determined by the board for each certificate. The license of any person who fails to procure any biennial certificate of registration, at the time and in the manner required by the board, except a person on the inactive status list, may be suspended by the board in the manner provided by section 12 of P.L. 1979, c. 46 (C. 45:6-59). Any license suspended shall be reinstated at any time within three years from the date of suspension upon the payment of all past due biennial registration fees and an additional reinstatement fee as determined by the board. Any person whose license shall have been suspended pursuant to this section shall, during the period of suspension, be regarded as an unlicensed person and, in case the person shall continue or engage in the practice of dental therapy during the suspension period, shall be liable to the penalties prescribed by section 11 of P.L. 1979, c. 46 (C. 45:6-58) for practicing dental therapy without a license. The fees shall be used by the board in the same manner as similar fees received by it under the provisions of chapter 6 of Title 45 of the Revised Statutes.

 14. (New section) Upon approval of an application pursuant to section 12 of P.L. , c. (C. ) (pending before the Legislature as this bill), an individual may provide the following dental therapy services to the extent authorized in a written collaborative agreement in accordance with section 15 of P.L. , c. (C. ) (pending before the Legislature as this bill):

 a. all the services for which education is provided by an accredited dental therapy education program under the Commission on Dental Accreditation’s accreditation standards for dental therapy education programs;

 b. oral examination, evaluation, diagnosis, and treatment planning for conditions and services that are within the dental therapist’s scope of practice and education;

 c. any of the following services:

 (1) production and evaluation of radiographic images;

 (2) administration of nitrous oxide;

 (3) placement and removal of intraoral sutures;

 (4) pulpotomy on primary teeth;

 (5) fabrication of soft occlusal guards;

 (6) tooth reimplantation and stabilization;

 (7) recementing permanent crowns;

 (8) extractions of deciduous or periodontally diseased permanent teeth with mobility of +3 or +4;

 (9) dispense and administer via the oral or topical route nonnarcotic analgesics, anti-inflammatories, anti-fungals, preventive agents, and antibiotics; and

 (10) administration of local anesthesia, nitrous oxide, and any other anesthetic procedure designated by the New Jersey State Board of Dentistry as permissible for a licensed dental therapist to perform;

 d. other related services and functions for which the individual has education and training; and

 e. other services authorized by the board in rule.

 15. (New section) a. Prior to performing any dental therapy services, an individual licensed as a dental therapist pursuant to P.L.    , c.    (C.        ) (pending before the Legislature as this act) shall enter into a written collaboration agreement with a New Jersey-licensed dentist who will supervise the dental therapist. The agreement shall be signed by the dental therapist and the supervising dentist and maintained, for a time as determined by the board, by the dental therapist and supervising dentist. The agreement shall be updated when changes are made in the supervisory or collaborative relationship and the updated agreement maintained, for a time as determined by the board, by the dental therapist and supervising dentist.

 b. A collaborative agreement shall include, at a minimum, the following provisions:

 (1) methods of supervision, consultation, and approval the supervising dentist is to provide;

 (2) the services the dental therapist is authorized to provide, including any limits or conditions set by the supervising dentist on the provision of any of the services set forth in section 14 of P.L.    , c.    (C.        ) (pending before the Legislature as this bill);

 (3) the settings in which the supervising dentist authorizes dental therapy services to be provided and the circumstances or conditions under which dental therapy services may be provided in particular settings;

 (4) protocols for informed consent, recordkeeping, quality assurance, and dispensing or administering medications;

 (5) policies for handling referrals when a patient needs services the dental therapist is not authorized or qualified to provide;

 (6) policies for handling medical emergencies; and

 (7) policies for supervision of dental assistants and working with dental hygienists, registered dental assistants, dental assistants, limited dental assistants, and other dental practitioners and staff.

 c. A licensed dental therapist may supervise one or more licensed dental hygienists, registered dental assistants, dental assistants, and limited dental assistants.

 16. (New section) a. A licensed dental therapist may perform the dental therapy services delineated in section 14 of P.L.    , c.   (C.      ) (pending before the Legislature as this bill) under the supervision of a New Jersey-licensed dentist to the extent authorized by the supervising dentist and provided consistent with the terms of a written collaborative agreement in accordance with section 15 of P.L. , c. (C. ) (pending before the Legislature as this bill).

 b. The dentist supervising the dental therapist may:

 (1) restrict or limit the dental therapy services to be performed by the dental therapist to be less than the full set of dental therapy services set forth in section 14 of P.L. , c. (C. ) (pending before the Legislature as this bill); and

 (2) authorize a dental therapist to provide dental therapy services without a prior examination or diagnosis by a dentist.

 c. Nothing contained in P.L. , c. (C. ) (pending before the Legislature as this bill) shall be deemed or construed to require a dental therapist to be an employee of the dentist supervising the therapist.

 17. (New section) The board may, in its discretion, issue a license to practice dental therapy to any applicant from another state or jurisdiction of the United States, including any tribal jurisdiction, or from a foreign country, in which the individual was licensed or otherwise issued a credential to practice dental therapy if the applicant presents proof, as determined by the board, of completion of:

 a. an accredited program in dental therapy; or

 b. a combination of dental therapy education, post-graduation education or training, and clinical practice that, as determined by the board, is equivalent to completion of an accredited program in dental therapy.

 c. An individual applying for licensure in this State based on qualification in accordance with subsection b. of this section is to be granted a license if the individual completed the education, training, and clinical practice in the five years immediately prior to the enactment of P.L. , c. (C. ) (pending before the Legislature as this bill).

 18. (New section) Notwithstanding the provisions of section 6 of P.L.2012, c.29 (C.45:6-73), a dental therapist licensed pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill) shall be allowed to:

 a. within the scope of practice of dental therapy:

 (1) make certain diagnoses and develop treatment plans with respect to the dental condition or treatment of any living person in New Jersey; and

 (2) perform certain surgical or irreversible procedures, including, but not limited to, the cutting of hard or soft tissue or the extraction of any tooth on any living person in New Jersey; and

 b. bill or submit a claim for any service rendered involving the practice of dental therapy in this State.

 19. (New section) a. The NJ FamilyCare Program shall cover dental therapy services to NJ FamilyCare program enrollees if:

 (1) the services are provided by a dental therapist supervised by a New Jersey-licensed dentist who is enrolled as a dental provider in the NJ FamilyCare Program; and

 (2) the dental therapist is:

 (a) enrolled as dental provider in the NJ FamilyCare Program; and

 (b) designated as the provider rendering services on claims submitted by an enrolled and authorized billing provider in the NJ FamilyCare Program.

 b. The Commissioner of Human Services shall apply for such State plan amendments or waivers as may be necessary to implement the provisions of this section and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

 20. (New section) P.L. , c. (C. ) (pending before the Legislature as this bill) shall not prohibit, restrict, or impose State licensure or regulatory requirements or obligations on the practice of dental therapy on tribal lands or by a dental therapist who is employed by an urban Indian health program or a tribal health program authorized pursuant to the “1975 Indian Self-Determination and Education Assistance Act,” Pub.L.93-638.

 21. The board shall promulgate such rules and regulations as is deemed necessary to effectuate the purposes of P.L. , c. (C. ) (pending before the Legislature as this bill) no later than the first day of the thirteenth month next following enactment of P.L.    , c.    (C.        ) (pending before the Legislature as this bill).

 22. This act shall take effect on the first day of the thirteenth month next following enactment, except section 1 regarding the appointment of a dental therapist to the New Jersey State Board of Dentistry shall remain inoperative until the first day of the sixty-first month next following enactment.

STATEMENT

 This bill provides for the licensure and regulation of dental therapists by the New Jersey State Board of Dentistry. Under the bill, the regulation of dental therapists is incorporated into various provisions of current law, including statutory requirements regarding the operations of dental clinics and continuing education.

 Additionally, the bill adds language regarding numerous requirements to practice as a dental therapist, including the requirements for licensure, the components of a collaborative agreement as well as the role of a dentist in a collaborative agreement, and the level of supervision a dental therapist is required to have to perform services. The bill also requires the board to promulgate regulations for dental therapists and its practice in the State within one year after the enactment of the bill.

 Lastly, the bill provides that dental therapists can bill or file a claim for certain services performed within the scope of practice of dental therapy. Moreover, the NJ FamilyCare Program is to provide coverage for dental therapy under certain circumstances. A state’s Medicaid program, including the NJ FamilyCare Program, is required, under federal law, to cover services provided at Federally Qualified Health Centers (“FQHC”). Dental therapy services provided at a FQHC, in accordance with federal law and the provisions of this bill, will be covered by the NJ FamilyCare Program.