

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FOURTEEN

H.P. 870 - L.D. 1230

An Act To Improve Access to Oral Health Care

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §3174-XX is enacted to read:

§3174-XX. Dental hygiene therapy reimbursement

1. Reimbursement. By October 1, 2015, the department shall provide for the reimbursement under the MaineCare program of dental hygiene therapists practicing as authorized under Title 32, chapter 16, subchapter 3-C for the procedures identified in their scope of practice. Reimbursement must be provided to dental hygiene therapists directly or to a federally qualified health center pursuant to section 3174-V when a dental hygiene therapist is employed as a core provider at the center.

2. Rulemaking. The department shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

Sec. 2. 24 MRSA §2317-B, sub-§19, as enacted by PL 1999, c. 256, Pt. M, §10, is amended to read:

19. Title 24-A, chapter 67. Medicare supplement insurance policies, Title 24-A, chapter 67; ~~and~~

Sec. 3. 24 MRSA §2317-B, sub-§20, as amended by PL 2003, c. 428, Pt. G, §1, is further amended to read:

20. Title 24-A, chapters 68 and 68-A. Long-term care insurance, nursing home care insurance and home health care insurance, Title 24-A, chapters 68 and 68-A; ~~and~~

Sec. 4. 24 MRSA §2317-B, sub-§21 is enacted to read:

21. Title 24-A, sections 2765-A and 2847-U. The practice of dental hygiene by a dental hygiene therapist, Title 24-A, sections 2765-A and 2847-U.

Sec. 5. 24-A MRSA §2765-A is enacted to read:

§2765-A. Coverage for services provided by dental hygiene therapist

1. Services provided by dental hygiene therapist. An insurer that issues individual dental insurance or health insurance that includes coverage for dental services shall provide coverage for dental services performed by a dental hygiene therapist licensed under Title 32, chapter 16, subchapter 3-C when those services are covered services under the contract and when they are within the lawful scope of practice of the dental hygiene therapist.

2. Limits; coinsurance; deductibles. A contract that provides coverage for the services required by this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

3. Coordination of benefits with dental insurance. If an enrollee eligible for coverage under this section is eligible for coverage under a dental insurance policy or contract and a health insurance policy or contract, the insurer providing dental insurance is the primary payer responsible for charges under subsection 1 and the insurer providing individual health insurance is the secondary payer.

4. Application. The requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

Sec. 6. 24-A MRSA §2847-U is enacted to read:

§2847-U. Coverage for services provided by dental hygiene therapist

1. Services provided by dental hygiene therapist. An insurer that issues group dental insurance or health insurance that includes coverage for dental services shall provide coverage for dental services performed by a dental hygiene therapist licensed under Title 32, chapter 16, subchapter 3-C when those services are covered services under the contract and when they are within the lawful scope of practice of the dental hygiene therapist.

2. Limits; coinsurance; deductibles. A contract that provides coverage for the services required by this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

3. Coordination of benefits with dental insurance. If an enrollee eligible for coverage under this section is eligible for coverage under a dental insurance policy or contract and a health insurance policy or contract, the insurer providing dental insurance is the primary payer responsible for charges under subsection 1 and the insurer providing group health insurance is the secondary payer.

Sec. 7. 32 MRSA c. 16, sub-c. 3-C is enacted to read:

SUBCHAPTER 3-C

DENTAL HYGIENE THERAPIST

§1094-AA. Dental hygiene therapist

A dental hygienist or independent practice dental hygienist licensed by the board pursuant to this chapter may practice as a licensed dental hygiene therapist to the extent permitted by this subchapter. To qualify for licensure under this subchapter as a dental hygiene therapist, a person shall apply to the board on forms provided by the board, pay the application fee under section 1094-DD and demonstrate to the board that the applicant:

1. **Licensure.** Possesses a valid license to practice dental hygiene or independent practice dental hygiene pursuant to this chapter or qualifies for licensure to practice by endorsement pursuant to section 1094-L;

2. **Educational program standards and requirements.** Has successfully completed a dental hygiene therapy education program that:

A. Is accredited by the American Dental Association Commission on Dental Accreditation or a successor organization;

B. Is a minimum of 4 semesters;

C. Is consistent with the model curriculum for educating dental hygiene therapists adopted by the American Association of Public Health Dentistry, or a successor organization, is consistent with existing dental hygiene therapy programs in other states and is approved by the board; and

D. Meets the requirements for dental hygiene therapy education programs adopted by the board;

3. **Bachelor of Science degree.** Has been awarded a Bachelor of Science degree in dental hygiene. In order to meet the requirements of this subsection, an applicant must hold at least an associate degree in dental hygiene before entering a dental hygiene therapy education program that meets the requirements of subsection 2, which may be completed concurrently or consecutively with a Bachelor of Science degree in dental hygiene;

4. **Examination.** Has passed a comprehensive, competency-based clinical examination approved by the board and administered independently of an institution providing dental hygiene therapy education and has passed an examination of the applicant's knowledge of Maine laws and rules relating to the practice of dentistry. An applicant who fails the clinical examination twice may not take the clinical examination again until further education and training, as specified by the board, are obtained; and

5. **Supervised clinical practice.** Has completed 2,000 hours of supervised clinical practice under the supervision of a dentist licensed under this chapter and in conformity with rules adopted by the board, during which supervised clinical practice the applicant holds a provisional dental hygiene therapy license pursuant to section 1094-BB. For

purposes of meeting the requirements of this subsection, an applicant's hours of supervised clinical experience while enrolled in the 4-semester dental training therapy program may be included.

§1094-BB. Provisional dental hygiene therapy license

The board shall issue a provisional dental hygiene therapy license to an applicant for licensure under this subchapter who has met the requirements of section 1094-AA, subsections 1 to 4 and rules adopted by the board and who has paid a fee established by the board of not more than \$175. During the period of provisional licensure, which may not exceed 3 years, the applicant shall maintain in good standing the applicant's license to practice as a dental hygienist or an independent practice dental hygienist. During the period of provisional licensure the applicant may be compensated for services performed as a dental hygiene therapist.

§1094-CC. Dental coverage and reimbursement

Notwithstanding the requirements of Title 24-A, section 2752, any service performed by a dentist, dental assistant or dental hygienist licensed in this State that is reimbursed by private insurance, a dental service corporation, the MaineCare program under Title 22 or the Cub Care program under Title 22, section 3174-T must also be covered and reimbursed when performed by a dental hygiene therapist authorized to practice under this subchapter.

§1094-DD. License; fees; discontinuation of license

The board shall issue a license to practice as a dental hygiene therapist to an applicant for licensure under this subchapter who has met the requirements of this subchapter and rules adopted pursuant to the subchapter for licensure and has paid the application fee of not more than \$175. A dental hygiene therapist shall publicly exhibit the license at the therapist's place of business or employment. The initial date of expiration of the license must be the original expiration date of the dental hygiene therapist's dental hygienist license issued by the board pursuant to subchapter 4 or, for an independent practice dental hygienist licensed by endorsement, January 1st of the first odd-numbered year following initial licensure. On or before January 1st of each odd-numbered year, a dental hygiene therapist shall pay to the board a license renewal fee. The board may renew the license of a dental hygiene therapist who meets the requirements for continued licensure and pays a renewal fee and a late fee by February 1st in the year in which renewal is due. The board shall suspend the license of a dental hygiene therapist who does not renew a license by February 1st in the year that renewal is due. The board may renew the license of a dental hygiene therapist who pays a renewal fee and a reinstatement fee as required by the board.

§1094-EE. Continuing education

As a condition of renewal of a license to practice under this subchapter, a dental hygiene therapist shall submit evidence of successful completion of 35 hours of continuing education in the 2 years prior to renewal. Continuing education under this section must be in conformity with the provisions of section 1084-A and must include

board-approved courses, including but not limited to a course in cardiopulmonary resuscitation. The board may refuse renewal to an applicant who has not satisfied the requirements of this section or may renew a license on terms and conditions set by the board.

§1094-FF. Limitation of practice

Upon completion of 2,000 hours of supervised clinical practice under section 1094-AA, subsection 4 a dental hygiene therapist may provide services within the scope of practice provided in section 1094-HH and under the direct supervision of a dentist who is licensed in this State in the following health settings: a hospital; a public school, as defined in Title 20-A, section 1, subsection 24; a nursing facility licensed under Title 22, chapter 405; a residential care facility licensed under Title 22, chapter 1663; a clinic; a health center reimbursed as a federally qualified health center as defined in 42 United States Code, Section 1395x(aa)(4) (1993) or that has been determined by the federal Department of Health and Human Services, Centers for Medicare and Medicaid Services to meet the requirements for funding under Section 330 of the Public Health Service Act, 42 United States Code, Section 254(b); a federally qualified health center licensed in this State; a public health setting that serves underserved populations as recognized by the federal Department of Health and Human Services; or a private dental practice in which at least 50% of the patients who are provided services by that dental hygiene therapist are covered by the MaineCare program under Title 22 or are underserved adults.

§1094-GG. Written practice agreement; standing orders

A dental hygiene therapist may practice only under the direct supervision of a dentist who is licensed in this State, referred to in this subchapter as "the supervising dentist," and through a written practice agreement signed by both parties. For the purposes of this section, a written practice agreement is a signed document that, in conformity with the legal scope of practice provided in section 1094-HH, outlines the functions that the dental hygiene therapist is authorized to perform. A dental hygiene therapist may practice only under the standing order of a dentist, may provide only care that follows written protocols and may provide only services that the dental hygiene therapist is authorized to provide by that dentist.

1. Minimum written practice agreement requirements. A written practice agreement between a supervising dentist and a dental hygiene therapist must include the following elements:

- A. The services and procedures and the practice settings for those services and procedures that the dental hygiene therapist may provide, together with any limitations on those services and procedures;
- B. Any age-specific and procedure-specific practice protocols, including case selection criteria, assessment guidelines and imaging frequency;
- C. Procedures to be used with patients treated by the dental hygiene therapist for obtaining informed consent and for creating and maintaining dental records;
- D. A plan for review of patient records by the supervising dentist and the dental hygiene therapist;

E. A plan for managing medical emergencies in each practice setting in which the dental hygiene therapist provides care;

F. A quality assurance plan for monitoring care, including patient care review, referral follow-up and a quality assurance chart review;

G. Protocols for administering and dispensing medications, including the specific circumstances under which medications may be administered and dispensed;

H. Criteria for providing care to patients with specific medical conditions or complex medical histories, including requirements for consultation prior to initiating care; and

I. Specific written protocols, including a plan for providing clinical resources and referrals, governing situations in which the patient requires treatment that exceeds the scope of practice or capabilities of the dental hygiene therapist.

2. Responsibility. The supervising dentist shall accept responsibility for all authorized services and procedures performed by the dental hygiene therapist pursuant to the written agreement. A dental hygiene therapist who provides services or procedures beyond those authorized in the written agreement engages in unprofessional conduct for the purposes of this chapter.

3. Revision. Revisions to the written practice agreement must be documented in a new written practice agreement signed by the supervising dentist and the dental hygiene therapist.

4. Requirements. A supervising dentist and a dental hygiene therapist who sign a written practice agreement shall each file a copy of the agreement with the board, keep a copy for the dentist's or dental hygiene therapist's own records and make a copy available to patients of the dental hygiene therapist upon request. The copy of the written practice agreement in the records of the board must be made available to the public upon request.

§1094-HH. Scope of practice

A dental hygiene therapist may provide the care and services listed in this section and may provide them only under the direct supervision of a dentist licensed in this State. A dental hygiene therapist practicing under general supervision of a dentist may perform all duties of a dental hygiene therapist listed in rules adopted by the board. A dental hygiene therapist who is licensed as a dental hygienist may perform all of the duties of a dental hygienist under this chapter. A dental hygiene therapist who is licensed as an independent practice dental hygienist may perform all of the duties of an independent practice dental hygienist. A dental hygiene therapist may:

1. Assessments and treatments; preparations; restorations. Perform oral health assessments, pulpal disease assessments for primary and young teeth, simple cavity preparations and restorations and simple extractions;

2. Crowns; space maintainers. Prepare and place stainless steel crowns and aesthetic anterior crowns for primary incisors and prepare, place and remove space maintainers;

3. Referrals. Provide referrals;

4. Anesthesia. Administer local anesthesia and nitrous oxide analgesia;

5. Preventive services. Perform preventive services;

6. Management of dental trauma and suturing; extractions. Conduct urgent management of dental trauma, perform suturing and extract primary teeth and perform nonsurgical extractions of periodontally diseased permanent teeth if authorized in advance by the supervising dentist;

7. Medications. Provide, dispense and administer, within the parameters of the written practice agreement entered into under section 1094-GG and with the authorization of the supervising dentist, anti-inflammatories, nonprescription analgesics, antimicrobials, antibiotics and anticaries materials;

8. Radiographs. Administer radiographs; and

9. Other related services and functions. Perform other related services and functions authorized by the supervising dentist and for which the dental hygiene therapist is trained.

§1094-II. Supervision of dental hygienists and dental assistants

A dental hygiene therapist may supervise dental assistants and dental hygienists to the extent permitted in the written practice agreement entered into under section 1094-GG. A dental hygiene therapist may not supervise more than 3 dental assistants and 2 dental hygienists in any one practice setting.

§1094-JJ. Referrals

A supervising dentist shall arrange for another dentist or specialist to provide any services needed by a patient of a dental hygiene therapist supervised by that dentist that are beyond the scope of practice of the dental hygiene therapist and that the supervising dentist is unable to provide. A dental hygiene therapist, in accordance with a written practice agreement entered into under section 1094-GG, shall refer patients to another qualified dental or health care professional to receive needed services that exceed the scope of practice of the dental hygiene therapist.

§1094-KK. Rulemaking

The board shall adopt rules to implement this subchapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 8. Board of Dental Examiners. By January 1, 2015, the Department of Professional and Financial Regulation, Board of Dental Examiners shall adopt rules setting requirements for dental hygiene therapy education programs. Prior to adopting rules, the board shall consult with:

1. A member of the Maine Dental Association;
2. A member of the Maine Dental Hygienists' Association;

3. A dentist who practices at a dental clinic at which at least 50% of that dentist's patients are eligible for the MaineCare program;
4. A dental hygienist who practices at a dental clinic at which at least 50% of that dental hygienist's patients are eligible for the MaineCare program;
5. A person whose area of expertise is in public health; and
6. A member of an organization that advocates for low-income persons.

Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A. Notwithstanding Title 32, section 1094-AA, subsection 2, paragraph A, until a dental hygiene therapy education program has been accredited by the American Dental Association Commission on Dental Accreditation or a successor organization, the Board of Dental Examiners may approve the dental hygiene therapy education program.

Sec. 9. Exemption from review. Notwithstanding the Maine Revised Statutes, Title 24-A, section 2752, this Act is enacted without review and evaluation by the Department of Professional and Financial Regulation, Bureau of Insurance.

Sec. 10. Application. Those sections of this Act that enact the Maine Revised Statutes, Title 22, section 3174-XX; Title 24, section 2317-B, subsection 21; and Title 24-A, sections 2765-A and 2847-U apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed on or after January 1, 2015 in this State. For purposes of this section, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.