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Legislative Document

No. 1441

H.P. 1053

House of Representatives, April 2, 2019

**An Act To Align the Laws Governing Dental Therapy with
Standards Established by the American Dental Association
Commission on Dental Accreditation**

Reference to the Committee on Health Coverage, Insurance and Financial Services
suggested and ordered printed.

A handwritten signature in black ink that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative MASTRACCIO of Sanford.
Cosponsored by President JACKSON of Aroostook and
Representatives: BABINE of Scarborough, CAIAZZO of Scarborough, CRAVEN of Lewiston,
DENK of Kennebunk, FARNSWORTH of Portland, FECTEAU of Biddeford, GROHOSKI of
Ellsworth, JORGENSEN of Portland.

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

2 **Sec. 1. 22 MRSA §3174-XX**, as amended by PL 2015, c. 429, §5, is further
3 amended to read:

4 **§3174-XX. Dental therapy reimbursement**

5 **1. Reimbursement.** By October 1, 2015, the department shall provide for the
6 reimbursement under the MaineCare program of dental hygiene therapists practicing as
7 authorized under Title 32, section 18377 for the procedures identified in their scope of
8 practice. Reimbursement must be provided to dental hygiene therapists directly or to a
9 federally qualified health center pursuant to section 3174-V when a dental hygiene
10 therapist is employed as a core provider at the center.

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

14 **Sec. 2. 24 MRSA §2317-B, sub-§21**, as enacted by PL 2013, c. 575, §4 and
15 affected by §10, is amended to read:

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

18 **Sec. 3. 24-A MRSA §2765-A**, as amended by PL 2015, c. 429, §12, is further
19 amended to read:

20 **§2765-A. Coverage for services provided by dental therapist**

21 **1. Services provided by dental therapist.** An insurer that issues individual dental
22 insurance or health insurance that includes coverage for dental services shall provide
23 coverage for dental services performed by a dental hygiene therapist licensed under Title
24 32, chapter 143 when those services are covered services under the contract and when
25 they are within the lawful scope of practice of the dental hygiene therapist.

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

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

35 **4. Application.** The requirements of this section apply to all policies, contracts and
36 certificates executed, delivered, issued for delivery, continued or renewed in this State.

1 For purposes of this section, all contracts are deemed to be renewed no later than the next
2 yearly anniversary of the contract date.

3 **Sec. 4. 24-A MRSA §2847-U**, as amended by PL 2015, c. 429, §14, is further
4 amended to read:

5 **§2847-U. Coverage for services provided by dental therapist**

6 **1. Services provided by dental therapist.** An insurer that issues group dental
7 insurance or health insurance that includes coverage for dental services shall provide
8 coverage for dental services performed by a dental hygiene therapist licensed under Title
9 32, chapter 143 when those services are covered services under the contract and when
10 they are within the lawful scope of practice of the dental hygiene therapist.

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

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

20 **Sec. 5. 32 MRSA §18302, sub-§§5, 7 and 8**, as enacted by PL 2015, c. 429,
21 §21, are further amended to read:

22 **5. Dental auxiliary.** "Dental auxiliary" means a dental radiographer, expanded
23 function dental assistant, dental hygienist, independent practice dental hygienist, public
24 health dental hygienist, dental hygiene therapist or dentist.

25 **7. Dental therapist.** "Dental hygiene therapist" means a person who holds a valid
26 license as a dental hygienist issued by the board and is authorized to practice dental
27 hygiene therapy under this chapter.

28 **8. Dental therapy.** "Dental hygiene therapy" means the delivery of dental hygiene
29 services, including performance of certain dental procedures in accordance with this
30 chapter.

31 **Sec. 6. 32 MRSA §18302, sub-§29**, as enacted by PL 2015, c. 429, §21, is
32 amended to read:

33 **29. Provisional dental therapist.** "Provisional dental hygiene therapist" means a
34 person who holds a valid license as a dental hygienist issued by the board and who is
35 authorized to practice dental hygiene therapy under the supervision of a dentist in
36 accordance with this chapter.

37 **Sec. 7. 32 MRSA §18345, sub-§2, ¶¶C and F**, as enacted by PL 2015, c. 429,
38 §21, are amended to read:

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C. For dental hygiene therapist authority:

~~(1) Verification of having successfully completed a~~ of a master's degree in dental hygiene therapy from a program that: accredited by the American Dental Association Commission on Dental Accreditation or its successor organization;

~~(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;~~

~~(d) Is consistent with existing dental hygiene therapy programs in other states approved by the board; and~~

~~(e) Meets the requirements for dental hygiene therapy education programs adopted by board rule;~~

~~(2) Verification of a bachelor's degree or higher in dental hygiene, master's degree in dental hygiene therapy or dental therapy from a school accredited from a program that meets the requirements by board rule consistent with the accreditation standards identified by the American Dental Association Commission on Dental Accreditation or a its successor organization;~~

(3) Verification of passing a clinical examination and all other examinations required by board rule. The clinical examination must be a comprehensive, competency-based clinical examination approved by the board and administered independently of an institution providing dental hygiene therapy education;

(4) Verification of having engaged in 2,000 hours of supervised clinical practice under the supervision of a dentist and in conformity with rules adopted by the board, during which supervised clinical practice the applicant is authorized to practice pursuant to paragraph F.

For purposes of meeting the clinical requirements of this subparagraph, an applicant's hours of supervised clinical experience ~~while enrolled in the dental hygiene therapy program under subparagraph (1) may be included as well as hours~~ completed under the supervision of a dentist licensed in another state or a Canadian province, ~~provided that~~ as long as the applicant was operating lawfully under the laws and rules of that state or province; ~~and~~

(5) A copy of the written practice agreement and standing orders required by section 18377, subsection 3; and

(6) Verification of a current advanced cardiac life support certification;

F. For provisional dental hygiene therapist authority:

(1) Verification of meeting the requirements of paragraph C, subparagraphs (1) to (3) and (6); and

1 (2) A copy of the written agreement in conformity with rules adopted by the
2 board between the applicant and a dentist who will provide levels of supervision
3 consistent direct supervision with the scope of practice outlined in section 18377
4 and in conformity with rules adopted by the board, subsection 1, paragraph A and
5 levels of supervision consistent with the scope of practice outlined in section
6 18374, subsections 1 and 2.

7 During the period of provisional authority the applicant may be compensated for
8 services performed as a dental hygiene therapist. The period of provisional authority
9 may not exceed 3 years.

10 **Sec. 8. 32 MRSA §18351, last ¶**, as amended by PL 2017, c. 388, §12, is further
11 amended to read:

12 An individual who practices under a resident dentist license or as a provisional dental
13 hygiene therapist may not apply for inactive status.

14 **Sec. 9. 32 MRSA §18371, sub-§5**, as enacted by PL 2015, c. 429, §21, is
15 amended to read:

16 **5. Supervision of dental therapists.** A dentist, referred to in this section as the
17 "supervising dentist," who employs a dental hygiene therapist shall comply with this
18 subsection.

19 A. A supervising dentist shall arrange for another dentist or specialist to provide any
20 services needed by a patient of a dental hygiene therapist supervised by that dentist
21 that are beyond the scope of practice of the dental hygiene therapist and that the
22 supervising dentist is unable to provide.

23 B. The supervising dentist is responsible for all authorized services and procedures
24 performed by the dental hygiene therapist pursuant to a written practice agreement
25 executed by the dentist pursuant to section 18377.

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

28 D. A supervising dentist who signs a written practice agreement shall file a copy of
29 the agreement with the board, keep a copy for the dentist's own records and make a
30 copy available to patients of the dental hygiene therapist upon request.

31 **Sec. 10. 32 MRSA §18377**, as enacted by PL 2015, c. 429, §21, is amended to
32 read:

33 **§18377. Dental therapist**

34 **1. Scope of practice.** A dental hygiene therapist may perform the following
35 procedures in limited practice settings, if authorized by a written practice agreement with
36 a dentist licensed in this State pursuant to subsection 3.

37 A. To the extent permitted in a written practice agreement, a dental hygiene therapist
38 may provide the care and services listed in this paragraph ~~only~~ and in section 18374,
39 subsections 1 and 2 under the ~~direct~~ general supervision of the supervising dentist:

- 1 (1) Perform oral health assessments, pulpal disease assessments for primary and
2 young teeth, simple cavity preparations and restorations and simple extractions;
- 3 (2) Prepare and place stainless steel crowns and aesthetic anterior crowns for
4 primary incisors and prepare, place and remove space maintainers;
- 5 (3) Provide referrals;
- 6 (4) Administer local anesthesia and nitrous oxide analgesia;
- 7 (5) Perform preventive services;
- 8 (6) Conduct urgent management of dental trauma, perform suturing, extract
9 primary teeth and perform nonsurgical extractions of periodontally diseased
10 permanent teeth if authorized in advance by the supervising dentist;
- 11 (7) Provide, dispense and administer anti-inflammatories, nonprescription
12 analgesics, antimicrobials, antibiotics and anticaries materials;
- 13 (8) Administer radiographs; and
- 14 (9) Perform other related services and functions authorized by the supervising
15 dentist and for which the dental hygiene therapist is trained.

16 ~~B. To the extent permitted in a written practice agreement, a dental hygiene therapist
17 may provide the care and services listed in section 18374, subsections 1 and 2 under
18 the general supervision of the supervising dentist.~~

19 **2. Supervision responsibilities.** A dental hygiene therapist may be delegated a
20 dentist’s responsibility to supervise up to 2 dental hygienists and 3 unlicensed persons in
21 any one practice setting through a written practice agreement pursuant to subsection 3.

22 **3. Practice requirements.** A dental hygiene therapist must comply with the
23 following practice limitations.

24 ~~A. A dental hygiene therapist may provide services only in a hospital; a public
25 school, as defined in Title 20-A, section 1, subsection 24; a nursing facility licensed
26 under Title 22, chapter 405; a residential care facility licensed under Title 22, chapter
27 1663; a clinic; a health center reimbursed as a federally qualified health center as
28 defined in 42 United States Code, Section 1395x(aa)(4) (1993) or that has been
29 determined by the federal Department of Health and Human Services, Centers for
30 Medicare and Medicaid Services to meet the requirements for funding under Section
31 330 of the Public Health Service Act, 42 United States Code, Section 254(b); a
32 federally qualified health center licensed in this State; a public health setting that
33 serves underserved populations as recognized by the federal Department of Health
34 and Human Services; or a private dental practice in which at least 50% of the patients
35 who are provided services by that dental hygiene therapist are covered by the
36 MaineCare program under Title 22 or are underserved adults.~~

37 B. A dental hygiene therapist may practice only under the direct levels of supervision
38 of a dentist through identified in a written practice agreement signed by both parties.
39 A written practice agreement is a signed document that outlines the functions that the
40 dental hygiene therapist is authorized to perform, which may not exceed the scopes of
41 practice specified in subsections 1 and 2. A dental hygiene therapist may practice

1 only under the standing order of the supervising dentist, may provide only care that
2 follows written protocols and may provide only services that the dental hygiene
3 therapist is authorized to provide by the written practice agreement.

4 C. A written practice agreement between a supervising dentist and a dental hygiene
5 therapist must include the following elements:

6 (1) The services and procedures and the practice settings for those services and
7 procedures that the dental hygiene therapist may provide, together with any
8 limitations on those services and procedures;

9 (2) Any age-specific and procedure-specific practice protocols, including case
10 selection criteria, assessment guidelines and imaging frequency;

11 (3) Procedures to be used with patients treated by the dental hygiene therapist for
12 obtaining informed consent and for creating and maintaining dental records;

13 (4) A plan for review of patient records by the supervising dentist and the dental
14 hygiene therapist;

15 (5) A plan for managing medical emergencies in each practice setting in which
16 the dental hygiene therapist provides care;

17 (6) A quality assurance plan for monitoring care, including patient care review,
18 referral follow-up and a quality assurance chart review;

19 (7) Protocols for administering and dispensing medications, including the
20 specific circumstances under which medications may be administered and
21 dispensed;

22 (8) Criteria for providing care to patients with specific medical conditions or
23 complex medical histories, including requirements for consultation prior to
24 initiating care; and

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

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

30 E. A dental hygiene therapist shall file a copy of a written practice agreement with
31 the board, keep a copy for the dental hygiene therapist's own records and make a
32 copy available to patients of the dental hygiene therapist upon request.

33 F. A dental hygiene therapist shall refer patients in accordance with a written
34 practice agreement to another qualified dental or health care professional to receive
35 needed services that exceed the scope of practice of the dental hygiene therapist.

36 G. A dental hygiene therapist who provides services or procedures beyond those
37 authorized in a written agreement engages in unprofessional conduct and is subject to
38 discipline pursuant to section 18325.

39 **4. Dental coverage and reimbursement.** Notwithstanding Title 24-A, section
40 2752, any service performed by a dentist, dental assistant or dental hygienist licensed in

1 this State that is reimbursed by private insurance, a dental service corporation, the
2 MaineCare program under Title 22 or the Cub Care program under Title 22, section
3 3174-T must also be covered and reimbursed when performed by a dental hygiene
4 therapist authorized to practice under this chapter.

5 **SUMMARY**

6 This bill makes the following changes to the laws affecting dental therapists.

7 1. It changes the name of the occupation licensed from "dental hygiene therapist" to
8 "dental therapist" to conform to the name used by other state licensing boards and the
9 American Dental Association Commission on Dental Accreditation.

10 2. It identifies the educational requirement as a master's degree in dental therapy. It
11 also clarifies that a dental therapy program must either be accredited by the American
12 Dental Association Commission on Dental Education or approved by the Board of Dental
13 Practice by rulemaking consistent with the curriculum standards of a dental therapy
14 program as adopted by the American Dental Association Commission on Dental
15 Education.

16 3. It requires a provisional dental therapist and a dental therapist to maintain a
17 current certification in advanced cardiac life support.

18 4. It clarifies the level of supervision of a provisional dental therapist to require both
19 direct and general supervision as identified in a written practice agreement with a
20 supervising dentist. It authorizes a dental therapist to practice under the general
21 supervision instead of direct supervision of a dentist pursuant to a written practice
22 agreement.

23 5. It removes the practice setting requirements.