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Fisher
5/11/19

CS FOR HOUSE BILL NO. 127(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE SPOHNHOLZ

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the practice of dental hygiene; relating to advanced practice permits
2 for dental hygienists; relating to dental assistants; prohibiting unfair discrimination
3 under group health insurance against a dental hygienist who holds an advanced practice
4 permit; relating to medical assistance for dental hygiene services; and providing for an
5 effective date."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** AS 08.32.110(e) is amended to read:

8 (e) This section does not prohibit a licensed dental hygienist

9 (1) with an endorsement issued under AS 08.32.085 from performing
10 the activities authorized under AS 08.32.085;

11 (2) who **holds an advanced practice permit issued by the board**
12 **under AS 08.32.125 or** has entered into a collaborative agreement approved by the
13 board under AS 08.32.115 from performing the activities authorized under the **permit**

or collaborative agreement; or

(3) from performing a dental operation, procedure, or service a dentist may delegate to a dental assistant under AS 08.36.346.

* **Sec. 2.** AS 08.32 is amended by adding a new section to read:

Sec. 08.32.125. Advanced practice permits. (a) The board may issue an advanced practice permit to a licensed dental hygienist with a minimum of 4,000 documented hours of clinical experience. A licensed dental hygienist holding an advanced practice permit may

(1) promote oral health and provide disease prevention education and oral systemic health education;

(2) remove calcareous deposits, accretions, and stains from the surfaces of teeth;

(3) apply topical preventive or prophylactic agents, including silver diamine fluoride, fluoride varnishes, and pit and fissure sealants;

(4) polish and smooth restorations;

(5) remove marginal overhangs;

(6) perform preliminary charting and triage to formulate a dental hygiene assessment and dental hygiene treatment plan;

(7) expose and develop radiographs;

(8) use local periodontal therapeutic agents;

(9) perform nonsurgical periodontal therapy, with or without the administration of local anesthesia;

(10) screen for oral cancer;

(11) if certified by the board, administer local anesthesia;

(12) prescribe

(A) fluoride that is applied or provided to a patient; and

(B) chlorhexidine or a similar antibacterial rinse; and

(13) delegate dental operations and services to a dental assistant as provided in AS 08.36.346.

(b) A licensed dental hygienist holding an advanced practice permit may provide the services described in (a) of this section to a patient who is unable to

1 receive dental treatment because of age, infirmity, or disability and is

2 (1) a resident in a senior center, including a hospital, long-term care
3 facility, adult foster home, residential care facility, or adult congregate living facility;

4 (2) a resident in a health care facility, including a mental health
5 residential program or facility for individuals with developmental or other disabilities;

6 (3) held in a local correctional facility for juveniles or adults;

7 (4) enrolled in a nursery school, day care program, vocational training
8 facility, primary school, secondary school, private school, or public charter school;

9 (5) entitled to benefits under 42 U.S.C. 1786 (Special Supplemental
10 Food Program for Women, Infants, and Children);

11 (6) homebound; or

12 (7) a resident of a dental health professional shortage area designated
13 under 42 U.S.C. 254e.

14 (c) A licensed dental hygienist holding an advanced practice permit may
15 provide the services described in (a) of this section to a patient described in (b) of this
16 section without

17 (1) the physical presence, authorization, or supervision of a licensed
18 dentist;

19 (2) a licensed dentist's examination of the patient.

20 (d) A licensed dental hygienist who provides services under an advanced
21 practice permit shall maintain professional liability insurance and provide the patient,
22 or the parent or legal guardian of the patient, with

23 (1) a written notice that the treatment provided will be limited to
24 services permitted under (a) of this section;

25 (2) a written recommendation that the patient be examined by a
26 licensed dentist for comprehensive oral health care services; and

27 (3) assistance in obtaining a referral to a licensed dentist for further
28 dental planning and treatment, including a written description of methods for
29 obtaining a referral and a list of licensed dentists in the patient's community or other
30 resources for finding a licensed dentist.

31 (e) A licensed dental hygienist holding an advanced practice permit may

practice as an independent contractor.

(f) An advanced practice permit is valid until the expiration of the dental hygienist's license to practice. A licensed dental hygienist may renew an advanced practice permit at the time of license renewal under AS 08.32.071.

* **Sec. 3.** AS 08.32.160 is amended to read:

Sec. 08.32.160. Grounds for discipline, suspension, or revocation of license.

The board may revoke or suspend the license of a dental hygienist, or may reprimand, censure, or discipline a licensee, if, after a hearing, the board finds that the licensee

(1) used or knowingly cooperated in deceit, fraud, or intentional misrepresentation to obtain a license, certificate, or endorsement;

(2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing or billing for professional services or engaging in professional activities;

(3) advertised professional services in a false or misleading manner;

(4) has been convicted of a felony or other crime that affects the licensee's ability to continue to practice competently and safely;

(5) failed to comply with this chapter, with a regulation adopted under this chapter or under AS 08.36, or with an order of the board;

(6) continued to practice after becoming unfit due to

(A) professional incompetence;

(B) addiction or dependence on alcohol or other drugs that impairs the licensee's ability to practice safely;

(C) physical or mental disability;

(7) engaged in lewd or immoral conduct in connection with the delivery of professional service to patients;

(8) **except as permitted under an advanced practice permit under AS 08.32.125,** performed clinical procedures without being under the supervision of a licensed dentist;

(9) did not conform to professional standards in delivering dental hygiene services to patients regardless of whether actual injury to the patient occurred;

(10) permitted a dental assistant employed by a dental hygienist or

working under the supervision of a dental hygienist to perform a dental procedure in violation of AS 08.32.110 or AS 08.36.346;

(11) falsified or destroyed a patient or facility record, or failed to maintain a patient or facility record for at least seven years after the date the record was created.

* **Sec. 4.** AS 08.36.346 is amended by adding a new subsection to read:

(c) A dental hygienist holding an advanced practice permit issued under AS 08.32.125 may delegate to a dental assistant under a level of supervision specified by the board in regulations

(1) the exposure and development of radiographs;

(2) application of topical preventive agents or pit and fissure sealants;

(3) other tasks specified by the board in regulations.

* **Sec. 5.** AS 21.36.090(d) is amended to read:

(d) Except to the extent necessary to comply with AS 21.42.365 and AS 21.56, a person may not practice or permit unfair discrimination against a person who provides a service covered under a group health insurance policy that extends coverage on an expense incurred basis, or under a group service or indemnity type contract issued by a health maintenance organization or a nonprofit corporation, if the service is within the scope of the provider's occupational license. In this subsection, "provider" means a state licensed physician, physician assistant, dentist, osteopath, optometrist, chiropractor, advanced practice registered nurse, naturopath, physical therapist, occupational therapist, marital and family therapist, psychologist, psychological associate, licensed clinical social worker, licensed professional counselor, [OR] certified direct-entry midwife, **or dental hygienist holding an advanced practice permit.**

* **Sec. 6.** AS 47.07.030(b) is amended to read:

(b) In addition to the mandatory services specified in (a) of this section and the services provided under (d) of this section, the department may offer only the following optional services: case management services for traumatic or acquired brain injury; case management and nutrition services for pregnant women; personal care services in a recipient's home; emergency hospital services; long-term care

1 noninstitutional services; medical supplies and equipment; advanced practice
2 registered nurse services; clinic services; rehabilitative services for children eligible
3 for services under AS 47.07.063, substance abusers, and emotionally disturbed or
4 chronically mentally ill adults; targeted case management services; inpatient
5 psychiatric facility services for individuals 65 years of age or older and individuals
6 under 21 years of age; psychologists' services; clinical social workers' services; marital
7 and family therapy services; midwife services; prescribed drugs; physical therapy;
8 occupational therapy; chiropractic services; low-dose mammography screening, as
9 defined in AS 21.42.375(e); hospice care; treatment of speech, hearing, and language
10 disorders; adult dental and dental hygiene services; prosthetic devices and
11 eyeglasses; optometrists' services; intermediate care facility services, including
12 intermediate care facility services for persons with intellectual and developmental
13 disabilities; skilled nursing facility services for individuals under 21 years of age; and
14 reasonable transportation to and from the point of medical care.

15 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 REGULATIONS. The Department of Commerce, Community, and Economic
18 Development, the Department of Health and Social Services, and the Board of Dental
19 Examiners may adopt regulations necessary to implement the changes made by this Act. The
20 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
21 effective date of the law implemented by the regulations.

22 * **Sec. 8.** Section 7 of this Act takes effect immediately under AS 01.10.070(c).

23 * **Sec. 9.** Except as provided in sec. 8 of this Act, this Act takes effect July 1, 2020.