

CS FOR SENATE BILL NO. 173(FIN) am H

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Amended: 5/17/22

Offered: 4/6/22

Sponsor(s): SENATOR WILSON

REPRESENTATIVES Cronk, LeBon

A BILL

FOR AN ACT ENTITLED

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

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

8 *** Section 1.** AS 08.01.065(c) is amended to read:

9 (c) Except as provided in **(f) - (k)** [(f) - (j)] of this section, the department shall
10 establish fee levels under (a) of this section so that the total amount of fees collected
11 for an occupation approximately equals the actual regulatory costs for the occupation.
12 The department shall annually review each fee level to determine whether the
13 regulatory costs of each occupation are approximately equal to fee collections related

1 to that occupation. If the review indicates that an occupation's fee collections and
 2 regulatory costs are not approximately equal, the department shall calculate fee
 3 adjustments and adopt regulations under (a) of this section to implement the
 4 adjustments. In January of each year, the department shall report on all fee levels and
 5 revisions for the previous year under this subsection to the office of management and
 6 budget. If a board regulates an occupation covered by this chapter, the department
 7 shall consider the board's recommendations concerning the occupation's fee levels and
 8 regulatory costs before revising fee schedules to comply with this subsection. In this
 9 subsection, "regulatory costs" means costs of the department that are attributable to
 10 regulation of an occupation plus

11 (1) all expenses of the board that regulates the occupation if the board
 12 regulates only one occupation;

13 (2) the expenses of a board that are attributable to the occupation if the
 14 board regulates more than one occupation.

15 * **Sec. 2.** AS 08.01.065 is amended by adding a new subsection to read:

16 (k) Notwithstanding (c) of this section, the department shall establish fee
 17 levels under (a) of this section so that the total amount of fees collected by the Board
 18 of Dental Examiners approximately equals the total regulatory costs of the department,
 19 the board, and the Department of Health for all occupations regulated by the board.
 20 For purposes of this subsection, the regulatory costs of the Department of Health for
 21 the occupations regulated by the board include the cost of inspecting dental
 22 radiological equipment under AS 44.29.020(d).

23 * **Sec. 3.** AS 08.32.110(e) is amended to read:

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

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

27 (2) who **holds an advanced practice permit issued by the board**
 28 **under AS 08.32.125 or** has entered into a collaborative agreement approved by the
 29 board under AS 08.32.115 from performing the activities authorized under the **permit**
 30 **or** collaborative agreement; or

31 (3) from performing a dental operation, procedure, or service a dentist

1 may delegate to a dental assistant under AS 08.36.346 **or that a licensed dental**
 2 **hygienist who holds an advanced practice permit issued by the board under**
 3 **AS 08.32.125 may delegate to a dental assistant under AS 08.36.346(c).**

4 * **Sec. 4.** AS 08.32 is amended by adding a new section to read:

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

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

11 (2) remove calcareous deposits, accretions, and stains from the
 12 surfaces of the teeth beginning at the epithelial attachment by scaling and polishing
 13 techniques;

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

16 (4) remove marginal overhangs;

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

19 (6) expose and develop radiographs;

20 (7) use local periodontal therapeutic agents;

21 (8) perform nonsurgical periodontal therapy;

22 (9) screen for oral cancer;

23 (10) if certified by the board, administer local anesthetic agents;

24 (11) prescribe

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

26 (B) chlorhexidine or a similar antibacterial rinse; and

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

29 (b) A licensed dental hygienist holding an advanced practice permit may
 30 provide the services described in (a) of this section to a patient who is unable to access
 31 dental treatment because of age, infirmity, or disability and is

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

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

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

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

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

10 (6) homebound; or

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

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

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

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

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

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

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

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

30 (e) An advanced practice permit is valid until the expiration of the dental
31 hygienist's license to practice. A licensed dental hygienist may renew an advanced

1 practice permit at the time of license renewal under AS 08.32.071.

2 * **Sec. 5.** AS 08.32.160 is amended to read:

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

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

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

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

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

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

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

16 (6) continued to practice after becoming unfit due to

17 (A) professional incompetence;

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

20 (C) physical or mental disability;

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

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

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

28 **(10) permitted a dental assistant employed by an advanced**
29 **practice dental hygienist or working under the supervision of a dental hygienist**
30 **to perform a dental procedure in violation of AS 08.32.110 or AS 08.36.346;**

31 **(11) falsified or destroyed a patient or facility record, or failed to**

1 **maintain a patient or facility record for at least seven years after the date the**
 2 **record was created.**

3 * **Sec. 6.** AS 08.36 is amended by adding new sections to read:

4 **Sec. 08.36.242. License to practice as specialist required.** A licensed dentist
 5 may not represent to the public to be qualified in a specialized branch of dentistry
 6 through any means of public advertising using the term "specialist," the name of a
 7 specialty, or a phrase that would suggest to the public that the dentist is a qualified
 8 specialist in a branch of dentistry unless the dentist has a specialist license in that
 9 branch as provided in this chapter.

10 **Sec. 08.36.243. Qualification for specialist license; scope of practice.** (a) An
 11 applicant for a specialist license must

12 (1) hold a license issued by the board in accordance with AS 08.36.110
 13 or 08.36.234; and

14 (2) meet additional qualifications for a specialist license in a specified
 15 branch of dentistry as established by the board by regulation.

16 (b) In determining the qualifications for a specialist license in a specified
 17 branch of dentistry under (a) of this section, the board shall consider the qualifications
 18 necessary to obtain specialty certification by a nationally recognized certifying entity
 19 approved by the board.

20 (c) The practice of a dentist who obtains a specialist license under (a) of this
 21 section is limited to the branch of dentistry in which the dentist holds a specialist
 22 license.

23 **Sec. 08.36.245. Suspension or revocation of specialist license.** The board
 24 may suspend or revoke a specialist license on grounds and according to the procedures
 25 set out in AS 08.36.315.

26 * **Sec. 7.** AS 08.36.346 is amended by adding a new subsection to read:

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

30 (1) the exposure and development of radiographs;

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

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

2 * **Sec. 8.** AS 21.36.090(d) is amended to read:

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

13 * **Sec. 9.** AS 44.29.020 is amended by adding a new subsection to read:

14 (d) The Department of Health shall establish standards that comply with
 15 federal law for the registration, use, and inspection of dental radiological equipment,
 16 including standards for record keeping relating to the control panels and the use of the
 17 equipment. In this subsection, "dental radiological equipment" means equipment for
 18 use in the practice of dentistry, consisting of a control panel and associated tube heads,
 19 if the equipment emits electronic product radiation, as defined in AS 18.60.545, or
 20 uses radionuclides, as defined in AS 18.60.545.

21 * **Sec. 10.** AS 44.46.029 is amended to read:

22 **Sec. 44.46.029. Dental radiological equipment.** This chapter does not
 23 authorize the department to register, inspect, test, or otherwise regulate dental
 24 radiological equipment or records relating to dental radiological equipment regulated
 25 by the **Department of Health** [BOARD OF DENTAL EXAMINERS] under
 26 **AS 44.29.020(d)** [AS 08.36.075].

27 * **Sec. 11.** AS 46.03.022 is amended to read:

28 **Sec. 46.03.022. Dental radiological equipment.** This title does not authorize
 29 the department to register, inspect, test, or otherwise regulate dental radiological
 30 equipment or records relating to dental radiological equipment regulated by the
 31 **Department of Health** [BOARD OF DENTAL EXAMINERS] under

1 **AS 44.29.020(d)** [AS 08.36.075].

2 * **Sec. 12.** AS 47.07.030(b) is amended to read:

3 (b) In addition to the mandatory services specified in (a) of this section and the
4 services provided under (d) of this section, the department may offer only the
5 following optional services: case management services for traumatic or acquired brain
6 injury; case management and nutrition services for pregnant women; personal care
7 services in a recipient's home; emergency hospital services; long-term care
8 noninstitutional services; medical supplies and equipment; advanced practice
9 registered nurse services; clinic services; rehabilitative services for children eligible
10 for services under AS 47.07.063, substance abusers, and emotionally disturbed or
11 chronically mentally ill adults; targeted case management services; inpatient
12 psychiatric facility services for individuals 65 years of age or older and individuals
13 under 21 years of age; psychologists' services; clinical social workers' services; marital
14 and family therapy services; professional counseling services; midwife services;
15 prescribed drugs; physical therapy; occupational therapy; chiropractic services; low-
16 dose mammography screening, as defined in AS 21.42.375(e); hospice care; treatment
17 of speech, hearing, and language disorders; adult dental **and dental hygiene** services;
18 prosthetic devices and eyeglasses; optometrists' services; intermediate care facility
19 services, including intermediate care facility services for persons with intellectual and
20 developmental disabilities; skilled nursing facility services for individuals under 21
21 years of age; and reasonable transportation to and from the point of medical care.

22 * **Sec. 13.** AS 08.36.075; AS 18.05.065; AS 18.60.525(e); and AS 44.29.027 are repealed.

23 * **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to
24 read:

25 TRANSITION: REGULATIONS. The Board of Dental Examiners, the Department of
26 Commerce, Community, and Economic Development, and the Department of Health may
27 adopt regulations necessary to implement the changes made by this Act. The regulations take
28 effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the
29 law implemented by the regulation.

30 * **Sec. 15.** Section 14 of this Act takes effect July 1, 2022.

31 * **Sec. 16.** Sections 3 - 5, 7, 8, and 12 of this Act take effect January 1, 2023.

1 * **Sec. 17.** Except as provided in secs. 15 and 16 of this Act, this Act takes effect July 1,
2 2023.