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LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 870, L.D. 1230, Bill, “An Act To Improve Access to Oral Health Care”

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

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:

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

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

4 **§2765-A. Coverage for services provided by dental hygiene therapist**

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

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

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

25 **§2847-U. Coverage for services provided by dental hygiene therapist**

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

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

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

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

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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. Education and experience. Has graduated from a dental hygiene therapy education program that:

A. Meets the standards adopted in this State for the certification of a degree-granting program in dental hygiene therapy at an accredited postsecondary institution;

B. 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 Commissioner of Health and Human Services and the Commissioner of Professional and Financial Regulation; and

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

3. 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; and

4. Supervised clinical practice. Has completed 1,000 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.

§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 3 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.

1 **§1094-CC. Dental coverage and reimbursement**

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

8 **§1094-DD. License; fees; discontinuation of license**

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

25 **§1094-EE. Continuing education**

26 As a condition of renewal of a license to practice under this subchapter, a dental
27 hygiene therapist shall submit evidence of successful completion of 35 hours of
28 continuing education in the 2 years prior to renewal. Continuing education under this
29 section must be in conformity with the provisions of section 1084-A and must include
30 board-approved courses, including but not limited to a course in cardiopulmonary
31 resuscitation. The board may refuse renewal to an applicant who has not satisfied the
32 requirements of this section or may renew a license on terms and conditions set by the
33 board.

34 **§1094-FF. Limitation of practice**

35 Upon completion of 1,000 hours of supervised clinical practice under section
36 1094-AA, subsection 4 a dental hygiene therapist may provide services within the scope
37 of practice provided in section 1094-HH and under the general supervision of a dentist in
38 the following health settings: a hospital; a public school, as defined in Title 20-A, section
39 1, subsection 24; a nursing facility licensed under Title 22, chapter 405; a residential care
40 facility licensed under Title 22, chapter 1663; a clinic; a health center reimbursed as a
41 federally qualified health center as defined in 42 United States Code, Section
42 1395x(aa)(4) (1993) or that has been determined by the federal Department of Health and
43 Human Services, Centers for Medicare and Medicaid Services to meet the requirements

1 for funding under Section 330 of the Public Health Service Act, 42 United States Code,
2 Section 254(b); a federally qualified health center licensed in this State; a public health
3 setting that serves underserved populations as recognized by the federal Department of
4 Health and Human Services; or a private dental practice that serves a population that is at
5 least 50% patients who are covered by the MaineCare program under Title 22 or are
6 underserved adults.

7 **§1094-GG. Written practice agreement; standing orders**

8 A dental hygiene therapist may practice only under the supervision of a dentist who is
9 licensed in this State and through a written practice agreement signed by both parties.
10 For the purposes of this section, a written practice agreement is a signed document that,
11 in conformity with the legal scope of practice provided in section 1094-HH, outlines the
12 functions that the dental hygiene therapist is authorized to perform. A dental hygiene
13 therapist may practice only under the standing order of a dentist, may provide only care
14 that follows written protocols and may provide only services that the dental hygiene
15 therapist is authorized to provide by that dentist.

16 **1. Limitation.** A dental hygiene therapist may provide services to a patient who has
17 not first seen a dentist for an examination if the supervising dentist has given the dental
18 hygiene therapist written authorization and standing protocols for the services and
19 reviews the patient records at least once in a 12-month period, as provided in the written
20 practice agreement. The standing protocols may require the supervising dentist to
21 personally examine patients either face-to-face or by the use of electronic means.

22 **2. Minimum written practice agreement requirements.** A written practice
23 agreement between a supervising dentist and a dental hygiene therapist must include the
24 following elements:

25 A. The services and procedures and the practice settings for those services and
26 procedures that the dental hygiene therapist may provide, together with any
27 limitations on those services and procedures;

28 B. Any age-specific and procedure-specific practice protocols, including case
29 selection criteria, assessment guidelines and imaging frequency;

30 C. Procedures to be used with patients treated by the dental hygiene therapist for
31 obtaining informed consent and for creating and maintaining dental records;

32 D. A plan for review of patient records by the supervising dentist and the dental
33 hygiene therapist;

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

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

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

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

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

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

9 **4. Revision.** Revisions to the written practice agreement must be documented in a
10 new written practice agreement signed by the supervising dentist and the dental hygiene
11 therapist.

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

17 **§1094-HH. Scope of practice**

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

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

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

32 **3. Referrals.** Provide referrals;

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

34 **5. Preventive services.** Perform preventive services;

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

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

1 **8. Radiographs.** Administer radiographs; and

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

5 **§1094-II. Supervision of dental hygienists and dental assistants**

6 A dental hygiene therapist may supervise dental assistants and dental hygienists to
7 the extent permitted in the written practice agreement entered into under section
8 1094-GG. A dental hygiene therapist may not supervise more than 3 dental assistants and
9 2 dental hygienists in any one practice setting.

10 **§1094-JJ. Referrals**

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

18 **§1094-KK. Rulemaking**

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

21 **Sec. 8. Board of Dental Examiners.** By January 1, 2015, the Department of
22 Professional and Financial Regulation, Board of Dental Examiners shall adopt rules
23 setting requirements for dental hygiene therapy education programs. Rules adopted
24 pursuant to this section are routine technical rules as defined in Title 5, chapter 375,
25 subchapter 2-A.

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

29 **Sec. 10. Application.** Those sections of this Act that enact the Maine Revised
30 Statutes, Title 22, section 3174-XX; Title 24, section 2317-B, subsection 21; and Title
31 24-A, sections 2765-A and 2847-U apply to all policies, contracts and certificates
32 executed, delivered, issued for delivery, continued or renewed on or after January 1, 2015
33 in this State. For purposes of this section, all contracts are deemed to be renewed no later
34 than the next yearly anniversary of the contract date.'

35 **SUMMARY**

36 This amendment is the majority report of the committee. It makes the following
37 changes to the bill.

38 1. It amends the laws governing MaineCare coverage, health insurance contracts and
39 group and blanket health insurance to provide for dental coverage and reimbursement for

1 services performed by dental hygiene therapists authorized to practice under the
2 provisions of the bill.

3 2. It limits the time frame for a provisional dental hygiene therapy license to 3 years.

4 3. It increases the number of supervised clinical practice hours required in order to
5 obtain a dental hygiene therapy license from 500 to 1,000.

6 4. It adds language to allow for the provisions regarding dental coverage and
7 reimbursement to be enacted without review by the Department of Professional and
8 Financial Regulation, Bureau of Insurance.

9 5. It adds an application section to provide that the requirements of the bill relating to
10 insurance reimbursement apply to all policies, contracts and certificates executed,
11 delivered, issued for delivery, continued or renewed on or after January 1, 2015 in this
12 State.

13 6. It makes changes to the sections of the bill relating to scope of practice of dental
14 hygiene therapists by removing minor surgical care, replacing the authority to prescribe
15 medication with authority to provide, dispense and administer certain medications within
16 the parameters of the written practice agreement and adding the authority to perform
17 nonsurgical extractions of diseased permanent teeth if authorized in advance by the
18 supervising dentist.

19 7. It adds public schools, residential care facilities and nursing facilities to the list of
20 health settings where dental hygiene therapists may provide services within their scope of
21 practice.

22 8. The bill allows a dental hygiene therapist to provide certain services while under
23 the general supervision of a dentist in certain health settings, including a setting in a
24 county designated as a dental shortage area by the federal Department of Health and
25 Human Services and in a private dental practice that serves a population that is at least
26 25% patients who are covered by the MaineCare program or are underserved adults. This
27 amendment removes a designated dental shortage area as an eligible setting and increases
28 the threshold for eligibility for private dental practices to those serving a population that
29 is at least 50% patients who are covered by the MaineCare program or are underserved
30 adults.

31 9. The bill allows a dental hygiene therapist to provide, dispense and administer
32 certain medications, including analgesics. This amendment specifies that the analgesics
33 are limited to nonprescription analgesics.