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SENATE BILL NO. 647

Offered January 17, 2014

A BILL to amend and reenact § 54.1-2722 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 32.1-326.4, relating to the Department of Medical Assistance Services; teledentistry pilot program.

 Patron—Black

 Unanimous consent to introduce

 Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2722 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 32.1-326.4 as follows:

§ 32.1-326.4. Teledentistry pilot program.

A. For the purposes of this section and § 54.1-2722:

"Teledentistry " means the delivery of dental services through the use of interactive audio, video, or other electronic media used for the purpose of diagnosis, consultation, or treatment. Teledentistry does not include audio-only telephone, email, or facsimile transmission.

B. The Department of Medical Assistance Services shall establish a pilot program providing dental services to school-age children who are eligible to receive pediatric dental services through the Smiles for Children program. The pilot program shall be further limited to children in school divisions in which at least 50 percent of the elementary school students have not been examined by a dentist within the preceding 12 months or have no dental home of record. Dentists participating in the program shall provide supervision to licensed dental hygienists through teledentistry. The dental hygienists shall provide the same services and work under the same protocol as dental hygienists employed by the State Department of Health pursuant to subsection E of § 54.1-2722.

C. The Department shall amend the State Plan for Medical Assistance and the Family Access to Medical Insurance Security (FAMIS) Plan to provide coverage for the costs of services provided in accordance with this section and may promulgate any rule or regulation or make any coding, reimbursement, or plan modification it deems necessary to carry out the provisions of this section.

D. The Department shall enter into a memorandum of understanding with the Virginia Dental Association and any other entity the Department deems appropriate establishing protocols for the administration of the program.

§ 54.1-2722. License; application; qualifications; practice of dental hygiene.

A. No person shall practice dental hygiene unless he possesses a current, active, and valid license from the Board of Dentistry. The licensee shall have the right to practice dental hygiene in the Commonwealth for the period of his license as set by the Board, under the direction of any licensed dentist.

B. An application for such license shall be made to the Board in writing and shall be accompanied by satisfactory proof that the applicant (i) is of good moral character, (ii) is a graduate of a dental hygiene program accredited by the Commission on Dental Accreditation and offered by an accredited institution of higher education, (iii) has passed the dental hygiene examination given by the Joint Commission on Dental Examinations, and (iv) has successfully completed a clinical examination acceptable to the Board.

C. The Board may grant a license to practice dental hygiene to an applicant licensed to practice in another jurisdiction if he (i) meets the requirements of subsection B; (ii) holds a current, unrestricted license to practice dental hygiene in another jurisdiction in the United States; (iii) has not committed any act that would constitute grounds for denial as set forth in § 54.1-2706; and (iv) meets other qualifications as determined in regulations promulgated by the Board.

D. A licensed dental hygienist may, under the direction or general supervision of a licensed dentist and subject to the regulations of the Board, perform services that are educational, diagnostic, therapeutic, or preventive. These services shall not include the establishment of a final diagnosis or treatment plan for a dental patient. Pursuant to subsection V of § 54.1-3408, a licensed dental hygienist may administer topical oral fluorides under an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine.

A dentist may also authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local

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59 anesthesia. In its regulations, the Board of Dentistry shall establish the education and training
60 requirements for dental hygienists to administer such controlled substances under a dentist's direction.

61 For the purposes of this section, "general supervision" means that a dentist has evaluated the patient
62 and prescribed authorized services to be provided by a dental hygienist; however, the dentist need not be
63 present in the facility while the authorized services are being provided.

64 For the purposes of this section, "remote supervision" means that a public health dentist has regular,
65 periodic communications with a public health dental hygienist regarding patient treatment, but such
66 dentist may not have done an initial examination of the patients who are to be seen and treated by the
67 dental hygienist and may not be present with the dental hygienist when dental hygiene services are
68 being provided.

69 The Board shall provide for an inactive license for those dental hygienists who hold a current,
70 unrestricted license to practice in the Commonwealth at the time of application for an inactive license
71 and who do not wish to practice in Virginia. The Board shall promulgate such regulations as may be
72 necessary to carry out the provisions of this section, including requirements for remedial education to
73 activate a license.

74 E. Notwithstanding any provision of law, a dental hygienist employed by the Virginia Department of
75 Health who holds a license issued by the Board of Dentistry may provide educational and preventative
76 dental care in the Commonwealth under the remote supervision of a dentist employed by the Department
77 of Health. A dental hygienist providing such services shall practice pursuant to a protocol adopted by
78 the Commissioner of Health on September 23, 2010, having been developed jointly by (i) the medical
79 directors of the Cumberland Plateau, Southside, and Lenowisco Health Districts; (ii) dental hygienists
80 employed by the Department of Health; (iii) the Director of the Dental Health Division of the
81 Department of Health; (iv) one representative of the Virginia Dental Association; and (v) one
82 representative of the Virginia Dental Hygienists' Association. Such protocol shall be adopted by the
83 Board as regulations.

84 F. A report of services provided by dental hygienists pursuant to such protocol, including their
85 impact upon the oral health of the citizens of the Commonwealth, shall be prepared and submitted by
86 the Department of Health to the Virginia Secretary of Health and Human Resources annually. Nothing
87 in this section shall be construed to authorize or establish the independent practice of dental hygiene.

88 *G. Notwithstanding any provision of law, a licensed dental hygienist may provide educational and*
89 *preventative dental care in the Commonwealth under the supervision through teledentistry of a dentist*
90 *pursuant to § 32.1-326.4. A dental hygienist providing such services shall practice pursuant to the*
91 *protocol adopted by the Board in accordance with subsection E.*

92 **2. That the provisions of the first enactment of this act shall expire July 1, 2016.**

93 **3. That the Department of Medical Assistance Services shall report, by November 1, 2016, to the**
94 **Secretary of Health and Human Services and the Chairmen of the House Appropriations and**
95 **Senate Finance Committees on the benefits, if any, of using teledentistry for the provision of**
96 **services required by this act.**