

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 21-0366.01 Yelana Love x2295

SENATE BILL 21-102

SENATE SPONSORSHIP

Buckner and Simpson, Fields, Ginal, Jaquez Lewis, Kirkmeyer

HOUSE SPONSORSHIP

(None),

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF SPECIFIC DENTAL HYGIENIST**
102 **FUNCTIONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING**
103 **THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET**
104 **REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Sunset Process - Senate Health and Human Services Committee. The bill:

- Continues the ability of dental hygienists to place interim

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
2nd Reading Unamended
March 12, 2021

therapeutic restorations (ITR) and apply silver diamine fluoride (SDF) until September 1, 2025, to align with the sunset review of the Colorado dental board (board) (**sections 1, 8 , and 9** of the bill);

- Relocates the statutory language granting dental hygienists the authority to apply SDF (**sections 3 to 7 and 9**);
- Specifies the requirements of an articulated plan between a dental hygienist and a collaborating dentist for purposes of dental hygienist prescribing (**section 6**);
- Repeals the requirement that a dental hygienist carry professional liability insurance to place ITR or apply SDF because the requirement exists in another provision of the "Dental Practice Act" that applies to all dental hygienists (**section 8**);
- Removes language specifying the timeline for communication with a distant dentist when using telehealth (**section 8**);
- Removes language specifying the number of hours of experience a dental hygienist is required to obtain before the board may grant the dental hygienist a permit to place ITR (**section 8**);
- Requires a dentist who collaborates with a dental hygienist in ITR placements using telehealth supervision to have an active license issued by the board and have a practice location that is either in Colorado or within reasonable proximity of the location where the ITR is placed (**section 8**);
- Requires the board to develop a waiver process to allow dentists to supervise more than 5 dental hygienists who place ITR (**section 8**); and
- Removes language regarding "store-and-forward transfer" technology to allow both synchronous and asynchronous technology when dental hygienists use telehealth in ITR placements and SDF applications (**sections 2, 10, and 11**).

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 24-34-104, **repeal**
3 (21)(a)(IV) and (21)(a)(X) as follows:

4 **24-34-104. General assembly review of regulatory agencies**
5 **and functions for repeal, continuation, or reestablishment - legislative**

1 **declaration - repeal.** (21) (a) The following agencies, functions, or both,
2 will repeal on September 1, 2021:

3 (IV) ~~The permitting of dental hygienists to place interim~~
4 ~~therapeutic restorations in accordance with section 12-220-505;~~

5 (X) ~~The application of silver diamine fluoride by dental hygienists~~
6 ~~in accordance with section 12-220-506.~~

7 **SECTION 2.** In Colorado Revised Statutes, 12-220-104, **repeal**
8 (14) as follows:

9 **12-220-104. Definitions - rules.** As used in this article 220, unless
10 the context otherwise requires:

11 (14) ~~"Telehealth by store-and-forward transfer" means an~~
12 ~~asynchronous transmission of medical or dental information to be~~
13 ~~reviewed by a dentist at a later time at a distant site without the patient~~
14 ~~present in real time.~~

15 **SECTION 3.** In Colorado Revised Statutes, 12-220-201, **amend**
16 **as it exists until July 1, 2023,** (1)(oo) as follows:

17 **12-220-201. Grounds for disciplinary action - definition.**

18 (1) The board may take disciplinary action against an applicant or
19 licensee in accordance with sections 12-20-404 and 12-220-202 for any
20 of the following causes:

21 (oo) Failing to comply with ~~section 12-220-506~~ SECTIONS
22 12-220-501 (1)(a)(II)(C) AND 12-220-503 (1)(g) AND RULES ADOPTED
23 PURSUANT TO THOSE SECTIONS regarding the application of silver diamine
24 fluoride.

25 **SECTION 4.** In Colorado Revised Statutes, 12-220-201, **amend**
26 **as it will become effective July 1, 2023,** (1)(oo) as follows:

27 **12-220-201. Grounds for disciplinary action - definition.**

1 (1) The board may take disciplinary action against an applicant or
2 licensee in accordance with sections 12-20-404 and 12-220-202 for any
3 of the following causes:

4 (oo) Failing to comply with ~~section 12-220-506~~ SECTIONS
5 12-220-501 (1)(a)(II)(C) AND 12-220-503 (1)(g) AND RULES ADOPTED
6 PURSUANT TO THOSE SECTIONS regarding the application of silver diamine
7 fluoride; or

8 **SECTION 5.** In Colorado Revised Statutes, 12-220-501, **amend**
9 (1)(a)(II)(B) and (1)(a)(II)(C); and **repeal** (1)(a)(II)(D) as follows:

10 **12-220-501. Tasks authorized to be performed by dental**
11 **assistants or dental hygienists - rules.** (1) (a) (II) A dental hygienist
12 may:

13 (B) Identify dental abnormalities for immediate referral to a
14 dentist as described in section 12-220-503 (1)(f); AND

15 (C) In collaboration with a licensed dentist, prescribe, administer,
16 and dispense, as described in section 12-220-503 (1)(g): Fluoride,
17 fluoride varnish, SILVER DIAMINE FLUORIDE, antimicrobial solutions for
18 mouth rinsing, other nonsystemic antimicrobial agents, and resorbable
19 antimicrobial agents pursuant to rules of the board. ~~and~~

20 (D) ~~In collaboration with a licensed dentist, apply silver diamine~~
21 ~~fluoride pursuant to section 12-220-506.~~

22 **SECTION 6.** In Colorado Revised Statutes, 12-220-503, **amend**
23 (1)(g)(I) and (1)(g)(III)(B); and **add** (1)(g)(IV) as follows:

24 **12-220-503. What constitutes practicing unsupervised dental**
25 **hygiene - rules.** (1) Unless licensed to practice dentistry, a person is
26 deemed to be practicing unsupervised dental hygiene when the person,
27 within the scope of the person's education, training, and experience:

1 (g) (I) Prescribes, administers, and dispenses fluoride, fluoride
2 varnish, SILVER DIAMINE FLUORIDE IN ACCORDANCE WITH SUBSECTION
3 (1)(g)(IV) OF THIS SECTION, antimicrobial solutions for mouth rinsing,
4 other nonsystemic antimicrobial agents, and related emergency drugs and
5 reversal agents in collaboration with a licensed dentist. The board, by
6 rule, may further define the permissible and appropriate emergency drugs
7 and reversal agents. AN ARTICULATED PLAN WITH A COLLABORATING
8 DENTIST FOR DENTAL HYGIENE PRESCRIBING MUST DESCRIBE ANY
9 PROTOCOLS, RESTRICTIONS OR LIMITATIONS, FOLLOW-UP AND REFERRAL
10 MECHANISMS, NOTIFICATION AND DISCLOSURE REQUIREMENTS, AND ANY
11 OTHER REQUIREMENTS ESTABLISHED BY THE BOARD BY RULE. Dental
12 hygienists shall maintain clear documentation in the patient record of the
13 drug or agent prescribed, administered, or dispensed; the date of the
14 action; and the rationale for prescribing, administering, or dispensing the
15 drug or agent.

16 (III) A dental hygienist may prescribe the following:

17 (B) Topical anti-carries treatments as follows, all using sodium
18 fluoride unless otherwise indicated: Toothpastes: 1.1% or less (or
19 stannous fluoride 0.4%); topical gels: 1.1% or less (or stannous fluoride
20 0.4%); oral rinses: 0.05%, 0.2%, 0.44%, or 0.5%; oral rinse concentrate
21 used in periodontal disease: 0.63% stannous fluoride; fluoride varnish:
22 5%; SILVER DIAMINE FLUORIDE: 38%; and prophy pastes containing
23 approximately 1.23% sodium fluoride and used for polishing procedures
24 as part of professional dental prophylaxis treatment;

25 (IV) A DENTAL HYGIENIST MAY PRESCRIBE AND APPLY SILVER
26 DIAMINE FLUORIDE UPON COMPLETION OF A POSTSECONDARY COURSE OR
27 CONTINUING EDUCATION COURSE DEVELOPED AT THE POSTSECONDARY

1 LEVEL THAT SATISFIES THE REQUIREMENTS ESTABLISHED BY THE BOARD
2 AND PROVIDES INSTRUCTIONS ON THE USE AND LIMITATIONS OF APPLYING
3 SILVER DIAMINE FLUORIDE. A DENTAL HYGIENIST MAY COMPLETE THE
4 COURSE DESCRIBED IN THIS SUBSECTION (1)(g)(IV) THROUGH:

- 5 (A) A LIVE AND INTERACTIVE COURSE PRESENTATION;
- 6 (B) AN ON-DEMAND WEBINAR WITH A COMPLETION QUIZ
7 COMPONENT TO VERIFY PARTICIPATION PRIOR TO THE ISSUANCE OF A
8 CERTIFICATE; OR
- 9 (C) ANY OTHER FORMAT APPROVED BY THE BOARD.

10 **SECTION 7.** In Colorado Revised Statutes, 12-220-504, **amend**
11 (1)(c) and (1)(d); and **repeal** (1)(e) as follows:

12 **12-220-504. What constitutes practicing supervised dental**
13 **hygiene.** (1) Unless licensed to practice dentistry, a person who performs
14 any of the following tasks under the supervision of a licensed dentist is
15 deemed to be practicing supervised dental hygiene:

- 16 (c) Administering local anesthesia under the indirect supervision
17 of a licensed dentist pursuant to rules of the board, including minimum
18 education requirements and procedures for local anesthesia
19 administration; OR
- 20 (d) Placing interim therapeutic restorations pursuant to section
21 12-220-505. ~~or~~
- 22 (e) ~~Applying silver diamine fluoride pursuant to section~~
23 ~~12-220-506.~~

24 **SECTION 8.** In Colorado Revised Statutes, 12-220-505, **amend**
25 (1)(a), (4)(c), (5), (6), and (7); and **repeal** (1)(c), (1)(d), (2), and (8) as
26 follows:

27 **12-220-505. Interim therapeutic restorations by dental**

1 **hygienists - permitting process - rules - subject to review.** (1) Upon
2 application, accompanied by a fee in an amount determined by the
3 director, the board shall grant a permit to place interim therapeutic
4 restorations to any dental hygienist applicant who:

5 (a) Holds a license in good standing to practice dental hygiene in
6 Colorado; AND

7 ~~(c) Carries current professional liability insurance as required~~
8 ~~pursuant to sections 12-220-307 and 13-64-301 (1)(a); and~~

9 ~~(d) Has completed the following hours of dental hygiene practice~~
10 ~~as evidenced in documentation required by the board:~~

11 ~~(I) Two thousand hours of supervised dental hygiene practice after~~
12 ~~initial dental hygiene licensure;~~

13 ~~(II) Four thousand hours of unsupervised dental hygiene practice~~
14 ~~after initial dental hygiene licensure; or~~

15 ~~(III) A combination of the hours specified in subsections (1)(d)(I)~~
16 ~~and (1)(d)(II) of this section as determined by the board by rule.~~

17 (2) ~~The board may waive the requirement in subsection (1)(d) of~~
18 ~~this section for a dental hygienist who performs interim therapeutic~~
19 ~~restorations exclusively under the direct supervision of a dentist.~~

20 (4) (c) A dental hygienist who obtains a dentist's diagnosis,
21 treatment plan, and instruction to perform an ITR utilizing telehealth by
22 ~~store-and-forward transfer~~ shall notify the patient of the patient's right to
23 receive interactive communication with the distant dentist upon request.
24 ~~Communication with the distant dentist may occur either at the time of the~~
25 ~~consultation or within thirty days after the dental hygienist notifies the~~
26 ~~patient of the results of the consultation.~~

27 (5) A dental hygienist who obtains a permit pursuant to this

1 section may place interim therapeutic restorations in a dental office
2 PRACTICE setting under the direct or indirect supervision of a dentist or
3 through telehealth supervision for purposes of communication with the
4 dentist.

5 (6) (a) A dentist shall not supervise more than five FULL-TIME
6 EQUIVALENT dental hygienists who place interim therapeutic restorations
7 under telehealth supervision UNLESS GRANTED A WAIVER BY THE BOARD
8 PURSUANT TO SUBSECTION (6)(b) OF THIS SECTION. FOR PURPOSES OF
9 PATIENT REFERRAL FOR FOLLOW-UP CARE, a dentist who supervises a
10 dental hygienist who provides interim therapeutic restorations under
11 telehealth supervision must have AN ACTIVE LICENSE IN GOOD STANDING
12 ISSUED BY THE BOARD AND a physical practice location in Colorado for
13 purposes of patient referral for follow-up care OR WITHIN REASONABLE
14 PROXIMITY OF THE LOCATION WHERE THE INTERIM THERAPEUTIC
15 RESTORATION IS PLACED.

16 (b) THE BOARD SHALL PROMULGATE RULES CREATING A PROCESS
17 FOR A DENTIST TO SEEK A WAIVER FROM THE SUPERVISION LIMIT SPECIFIED
18 IN SUBSECTION (6)(a) OF THIS SECTION. AT A MINIMUM, THE RULES MUST
19 SPECIFY THE APPLICATION PROCESS AND WAIVER REQUIREMENTS.

20 (7) A dental hygienist shall inform the patient or the patient's legal
21 guardian, in writing, and require the patient or the patient's legal guardian
22 to acknowledge by signature, that the interim therapeutic restoration is a
23 temporary repair to the tooth and that appropriate follow-up care with a
24 dentist is necessary IN ACCORDANCE WITH BOARD RULES, THAT THE
25 PATIENT SHOULD FOLLOW UP WITH A DENTIST AS APPROPRIATE.

26 (8) This section is repealed, effective September 1, 2021. Before
27 the repeal, the permitting of dental hygienists to place interim therapeutic

1 ~~restorations is scheduled for review in accordance with section~~
2 ~~24-34-104.~~

3 **SECTION 9.** In Colorado Revised Statutes, **repeal** 12-220-506.

4 **SECTION 10.** In Colorado Revised Statutes, 25.5-5-321.5,
5 **amend** (2)(b) as follows:

6 **25.5-5-321.5. Telehealth - interim therapeutic restorations -**
7 **reimbursement - definitions.** (2) As used in this section:

8 (b) "Store-and-forward transfer" means ~~a telehealth by~~
9 ~~store-and-forward transfer, as defined in section 12-220-104 (14)~~ THE
10 ASYNCHRONOUS TRANSMISSION OF MEDICAL OR DENTAL INFORMATION TO
11 BE REVIEWED BY A DENTIST AT A LATER TIME AT A DISTANT SITE WITHOUT
12 THE PATIENT PRESENT IN REAL TIME.

13 **SECTION 11.** In Colorado Revised Statutes, 25.5-8-109.5,
14 **amend** (2)(b) as follows:

15 **25.5-8-109.5. Telehealth - interim therapeutic restorations -**
16 **reimbursement - definitions.** (2) As used in this section:

17 (b) "Store-and-forward transfer" means ~~a telehealth by~~
18 ~~store-and-forward transfer, as defined in section 12-220-104 (14)~~ THE
19 ASYNCHRONOUS TRANSMISSION OF MEDICAL OR DENTAL INFORMATION TO
20 BE REVIEWED BY A DENTIST AT A LATER TIME AT A DISTANT SITE WITHOUT
21 THE PATIENT PRESENT IN REAL TIME.

22 **SECTION 12. Effective date.** This act takes effect September 1,
23 2021.

24 **SECTION 13. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, or safety.