

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0398.01 Yelana Love x2295

HOUSE BILL 18-1045

HOUSE SPONSORSHIP

Singer,

SENATE SPONSORSHIP

Tate,

House Committees

Public Health Care & Human Services

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE APPLICATION OF SILVER DIAMINE FLUORIDE TO
102 DENTAL PATIENTS.

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>.)

The bill allows a dental hygienist to apply silver diamine fluoride under the direct or indirect supervision of a dentist if the dental hygienist:

- ! Holds a license in good standing to practice dental hygiene;
- ! Completes a course on the use and limitations of silver diamine fluoride;
- ! Is covered by professional liability insurance; and

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.

! Has a collaborative agreement with a dentist that describes the silver diamine fluoride protocols, any restrictions or limitations, and follow-up and referral mechanisms.

To the extent that state medicaid or children's basic health plan reimbursement is available for the application of silver diamine fluoride, the reimbursement will extend to services provided via telehealth in connection with the application.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-35-103, **amend**
3 the introductory portion and (17) as follows:

4 **12-35-103. Definitions.** As used in this ~~article~~ ARTICLE 35, unless
5 the context otherwise requires:

6 (17) "Telehealth supervision" means indirect supervision by a
7 dentist of a dental hygienist ~~placing an ITR~~ PERFORMING A STATUTORILY
8 AUTHORIZED PROCEDURE using telecommunications systems.

9 **SECTION 2.** In Colorado Revised Statutes, 12-35-125, **add** (1)(j)
10 as follows:

11 **12-35-125. What constitutes practicing supervised dental**
12 **hygiene.** (1) Unless licensed to practice dentistry, a person who performs
13 any of the following tasks under the supervision of a licensed dentist is
14 deemed to be practicing supervised dental hygiene:

15 (j) APPLIES SILVER DIAMINE FLUORIDE PURSUANT TO SECTION
16 12-35-128.8.

17 **SECTION 3.** In Colorado Revised Statutes, **add** 12-35-128.8 as
18 follows:

19 **12-35-128.8. Application of silver diamine fluoride by dental**
20 **hygienists - authorization - limitations - rules.** (1) A DENTAL
21 HYGIENIST MAY APPLY SILVER DIAMINE FLUORIDE IF THE DENTAL
22 HYGIENIST:

1 (a) HOLDS A LICENSE IN GOOD STANDING TO PRACTICE DENTAL
2 HYGIENE IN COLORADO;

3 (b) HAS COMPLETED A POSTSECONDARY COURSE OR CONTINUING
4 EDUCATION COURSE DEVELOPED AT THE POSTSECONDARY LEVEL THAT
5 SATISFIES THE REQUIREMENTS ESTABLISHED BY THE BOARD BY RULE AND
6 THAT PROVIDES INSTRUCTION ON THE USE AND LIMITATIONS OF APPLYING
7 SILVER DIAMINE FLUORIDE;

8 (c) IS COVERED BY PROFESSIONAL LIABILITY INSURANCE IN THE
9 AMOUNT ESTABLISHED BY THE BOARD PURSUANT TO SECTION 12-35-141;
10 AND

11 (d) HAS A COLLABORATIVE AGREEMENT WITH A DENTIST THAT
12 DESCRIBES THE SILVER DIAMINE FLUORIDE PROTOCOLS, ANY RESTRICTIONS
13 OR LIMITATIONS, FOLLOW-UP AND REFERRAL MECHANISMS, AND ANY
14 OTHER REQUIREMENTS ESTABLISHED BY THE BOARD BY RULE.

15 (2) (a) A DENTAL HYGIENIST MAY APPLY SILVER DIAMINE
16 FLUORIDE ONLY AFTER A DENTIST PROVIDES A DIAGNOSIS, TREATMENT
17 PLAN, AND INSTRUCTION TO PERFORM THE APPLICATION.

18 (b) IF THE APPLICATION OF SILVER DIAMINE FLUORIDE IS
19 AUTHORIZED BY A SUPERVISING DENTIST AT A LOCATION OTHER THAN THE
20 DENTIST'S PRACTICE LOCATION, THE DENTAL HYGIENIST SHALL PROVIDE
21 THE PATIENT OR THE PATIENT'S REPRESENTATIVE WITH WRITTEN
22 NOTIFICATION THAT THE APPLICATION OF SILVER DIAMINE FLUORIDE IS
23 BEING PROVIDED AT THE DIRECTION OF THE SUPERVISING DENTIST. THE
24 DENTAL HYGIENIST SHALL INCLUDE IN THE WRITTEN NOTIFICATION THE
25 DENTIST'S NAME, PRACTICE LOCATION ADDRESS, AND TELEPHONE NUMBER.

26 (c) A DENTAL HYGIENIST WHO OBTAINS A DENTIST'S DIAGNOSIS,
27 TREATMENT PLAN, AND INSTRUCTION TO APPLY SILVER DIAMINE FLUORIDE

1 UTILIZING TELEHEALTH BY STORE-AND-FORWARD TRANSFER SHALL
2 NOTIFY THE PATIENT OR THE PATIENT'S REPRESENTATIVE OF THE PATIENT'S
3 RIGHT TO RECEIVE INTERACTIVE COMMUNICATION WITH THE DISTANT
4 DENTIST UPON REQUEST. COMMUNICATION WITH THE DISTANT DENTIST
5 MAY OCCUR EITHER AT THE TIME OF THE CONSULTATION OR WITHIN
6 THIRTY DAYS AFTER THE DENTAL HYGIENIST NOTIFIES THE PATIENT OF THE
7 RESULTS OF THE CONSULTATION.

8 (3) A DENTAL HYGIENIST WHO MEETS THE REQUIREMENTS OF
9 SUBSECTIONS (1) AND (2) OF THIS SECTION MAY APPLY SILVER DIAMINE
10 FLUORIDE IN A DENTAL OFFICE SETTING UNDER THE DIRECT OR INDIRECT
11 SUPERVISION OF A DENTIST OR THROUGH TELEHEALTH SUPERVISION FOR
12 PURPOSES OF COMMUNICATION WITH THE DENTIST.

13 (4) (a) NOT LATER THAN NINETY DAYS AFTER THE EFFECTIVE DATE
14 OF THIS SECTION, THE BOARD SHALL PROMULGATE RULES TO:

15 (I) DEFINE REQUIREMENTS FOR THE EDUCATION COURSE REQUIRED
16 IN SUBSECTION (1)(b) OF THIS SECTION, INCLUDING QUALIFICATIONS FOR
17 ENTITIES OFFERING THE COURSE AND FACULTY OVERSIGHT
18 REQUIREMENTS; AND

19 (II) ADDRESS APPROPRIATE INDICATIONS AND LIMITATIONS FOR
20 THE APPLICATION OF SILVER DIAMINE FLUORIDE BY A DENTAL HYGIENIST.

21 (b) THE BOARD MAY ESTABLISH ADDITIONAL REQUIREMENTS FOR
22 THE COLLABORATIVE AGREEMENT REQUIRED BY SUBSECTION (1)(d) OF
23 THIS SECTION.

24 **SECTION 4.** In Colorado Revised Statutes, 12-35-129, **amend**
25 (1)(mm) and (1)(nn); and **add** (1)(oo) as follows:

26 **12-35-129. Grounds for disciplinary action.** (1) The board may
27 take disciplinary action against an applicant or licensee in accordance

1 with section 12-35-129.1 for any of the following causes:

2 (mm) Failing to complete and maintain records of completing
3 continuing education as required by section 12-35-139; ~~or~~

4 (nn) Failing to comply with section 12-35-128.5 regarding the
5 placement of interim therapeutic restorations; OR

6 (oo) FAILING TO COMPLY WITH SECTION 12-35-128.8 REGARDING
7 THE APPLICATION OF SILVER DIAMINE FLUORIDE.

8 **SECTION 5.** In Colorado Revised Statutes, 25.5-5-207, **add**
9 (2)(e) as follows:

10 **25.5-5-207. Adult dental benefit - adult dental fund - creation**
11 **- legislative declaration.** (2) (e) SUBJECT TO FEDERAL AUTHORIZATION
12 AND FEDERAL FINANCIAL PARTICIPATION, ON OR AFTER JULY 1, 2019, THE
13 DIAGNOSIS, DEVELOPMENT OF A TREATMENT PLAN, AND INSTRUCTION TO
14 APPLY SILVER DIAMINE FLUORIDE, OR SUPERVISION OF A DENTAL
15 HYGIENIST APPLYING SILVER DIAMINE FLUORIDE, PURSUANT TO SECTION
16 12-35-128.8 MAY BE PROVIDED THROUGH TELEHEALTH, INCLUDING
17 STORE-AND-FORWARD TRANSFER, IN ACCORDANCE WITH SECTION
18 25.5-5-321.7.

19 **SECTION 6.** In Colorado Revised Statutes, **add** 25.5-5-321.7 as
20 follows:

21 **25.5-5-321.7. Telehealth - silver diamine fluoride application**
22 **- reimbursement - definitions.** (1) SUBJECT TO FEDERAL
23 AUTHORIZATION AND FEDERAL FINANCIAL PARTICIPATION, ON OR AFTER
24 JULY 1, 2019, IN-PERSON CONTACT BETWEEN A HEALTH CARE PROVIDER
25 AND A RECIPIENT IS NOT REQUIRED UNDER THE STATE'S MEDICAL
26 ASSISTANCE PROGRAM FOR THE DIAGNOSIS, DEVELOPMENT OF A
27 TREATMENT PLAN, AND INSTRUCTION TO APPLY SILVER DIAMINE

1 FLUORIDE, OR SUPERVISION OF A DENTAL HYGIENIST APPLYING SILVER
2 DIAMINE FLUORIDE, PURSUANT TO SECTION 12-35-128.8. A HEALTH CARE
3 PROVIDER MAY PROVIDE THESE SERVICES THROUGH TELEHEALTH,
4 INCLUDING STORE-AND-FORWARD TRANSFER, AND IS ENTITLED TO
5 REIMBURSEMENT FOR THE DELIVERY OF THOSE SERVICES VIA TELEHEALTH
6 TO THE EXTENT THE SERVICES ARE OTHERWISE ELIGIBLE FOR
7 REIMBURSEMENT UNDER THE PROGRAM WHEN PROVIDED IN PERSON. THE
8 SERVICES ARE SUBJECT TO THE REIMBURSEMENT POLICIES DEVELOPED
9 PURSUANT TO THE STATE MEDICAL ASSISTANCE PROGRAM.

10 (2) AS USED IN THIS SECTION, "STORE-AND-FORWARD TRANSFER"
11 HAS THE SAME MEANING AS "TELEHEALTH BY STORE-AND-FORWARD
12 TRANSFER" AS SET FORTH IN SECTION 12-35-103 (16).

13 **SECTION 7.** In Colorado Revised Statutes, **add** 25.5-8-109.7 as
14 follows:

15 **25.5-8-109.7. Telehealth - silver diamine fluoride application**
16 **- reimbursement - definitions.** (1) SUBJECT TO FEDERAL
17 AUTHORIZATION AND FINANCIAL PARTICIPATION, ON OR AFTER JULY 1,
18 2019, IN-PERSON CONTACT BETWEEN A HEALTH CARE PROVIDER AND AN
19 ENROLLEE IS NOT REQUIRED UNDER THE CHILDREN'S BASIC HEALTH PLAN
20 FOR THE DIAGNOSIS, DEVELOPMENT OF A TREATMENT PLAN, AND
21 INSTRUCTION TO APPLY SILVER DIAMINE FLUORIDE, OR SUPERVISION OF A
22 DENTAL HYGIENIST APPLYING SILVER DIAMINE FLUORIDE, PURSUANT TO
23 SECTION 12-35-128.8. A HEALTH CARE PROVIDER MAY PROVIDE THESE
24 SERVICES THROUGH TELEHEALTH, INCLUDING STORE-AND-FORWARD
25 TRANSFER, AND IS ENTITLED TO REIMBURSEMENT FOR THE DELIVERY OF
26 THOSE SERVICES VIA TELEHEALTH TO THE EXTENT THE SERVICES ARE
27 OTHERWISE ELIGIBLE FOR REIMBURSEMENT UNDER THE PLAN. THE

1 SERVICES ARE SUBJECT TO THE REIMBURSEMENT POLICIES DEVELOPED
2 PURSUANT TO THE CHILDREN'S BASIC HEALTH PLAN.

3 (2) AS USED IN THIS SECTION, "STORE-AND-FORWARD TRANSFER"
4 HAS THE SAME MEANING AS "TELEHEALTH BY STORE-AND-FORWARD
5 TRANSFER" AS SET FORTH IN SECTION 12-35-103 (16).

6 **SECTION 8. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.