

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 15-0712.01 Yelana Love x2295

HOUSE BILL 15-1309

HOUSE SPONSORSHIP

Ginal,

SENATE SPONSORSHIP

Crowder,

House Committees

Health, Insurance, & Environment
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE PLACEMENT OF INTERIM THERAPEUTIC**
102 **RESTORATIONS BY DENTAL HYGIENISTS, AND, IN CONNECTION**
103 **THEREWITH, ENSURING MEDICAID AND CHILDREN'S BASIC**
104 **HEALTH PLAN REIMBURSEMENT FOR SERVICES PROVIDED**
105 **THROUGH THE USE OF TELEHEALTH RELATED TO INTERIM**
106 **THERAPEUTIC RESTORATION PROCEDURES.**

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://www.leg.state.co.us/billsummaries>.)

The bill allows a dental hygienist to apply to the Colorado dental

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

board for a permit to place interim therapeutic restorations (ITRs). A dental hygienist who meets the following requirements is eligible to receive a permit to place ITRs:

- ! Holds a license in good standing to practice dental hygiene;
- ! Carries professional liability insurance;
- ! Completes the required hours of dental hygiene practice; and
- ! Completes a board-approved course based on uniform standards developed by an ITR advisory committee.

To the extent that state medicaid or children's basic health plan reimbursement is available for the placement of ITRs, the reimbursement will extend to services provided via telehealth in connection with the placement of an ITR.

The bill establishes the interim therapeutic restorations advisory committee to develop uniform standards for training dental hygienists to place ITRs.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-35-103, **add**
3 (10.5), (16), and (17) as follows:

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

6 (10.5) (a) "INTERIM THERAPEUTIC RESTORATION" OR "ITR" MEANS
7 A DIRECT PROVISIONAL RESTORATION PLACED TO STABILIZE A TOOTH
8 UNTIL A LICENSED DENTIST CAN ASSESS THE NEED FOR FURTHER
9 DEFINITIVE TREATMENT.

10 (b) (I) "INTERIM THERAPEUTIC RESTORATION" INVOLVES THE
11 REMOVAL OF SOFT MATERIAL USING HAND INSTRUMENTATION, WITHOUT
12 THE USE OF ROTARY INSTRUMENTATION, AND THE SUBSEQUENT
13 PLACEMENT OF A GLASS IONOMER RESTORATION.

14 (II) THE BOARD MAY PROMULGATE RULES REGARDING THE USE OF
15 NEW RESTORATIVE MATERIALS IN ADDITION TO THE MATERIALS DESCRIBED
16 IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) THAT ARE APPROPRIATE TO

1 THE INTERIM THERAPEUTIC RESTORATION PROCEDURE AS THEY BECOME
2 AVAILABLE.

3 (c) "INTERIM THERAPEUTIC RESTORATION" INCLUDES PROTECTIVE
4 RESTORATION FOR ADULTS DELIVERED IN ACCORDANCE WITH SECTION
5 12-35-128.5.

6 (16) "TELEHEALTH BY STORE-AND-FORWARD TRANSFER" MEANS
7 AN ASYNCHRONOUS TRANSMISSION OF MEDICAL OR DENTAL INFORMATION
8 TO BE REVIEWED BY A DENTIST AT A LATER TIME AT A DISTANT SITE
9 WITHOUT THE PATIENT PRESENT IN REAL TIME.

10 (17) "TELEHEALTH SUPERVISION" MEANS INDIRECT SUPERVISION
11 BY A DENTIST OF A DENTAL HYGIENIST PLACING AN ITR USING
12 TELECOMMUNICATIONS SYSTEMS.

13 **SECTION 2.** In Colorado Revised Statutes, 12-35-125, **add** (1)
14 (i) as follows:

15 **12-35-125. What constitutes practicing supervised dental**
16 **hygiene.** (1) Unless licensed to practice dentistry, a person who performs
17 any of the following tasks under the supervision of a licensed dentist is
18 deemed to be practicing supervised dental hygiene:

19 (i) PLACES INTERIM THERAPEUTIC RESTORATIONS PURSUANT TO
20 SECTION 12-35-128.5.

21 **SECTION 3.** In Colorado Revised Statutes, **add** 12-35-128.3 as
22 follows:

23 **12-35-128.3. Interim therapeutic restorations advisory**
24 **committee - rules - repeal.** (1) THERE IS HEREBY ESTABLISHED IN THE
25 DIVISION OF PROFESSIONS AND OCCUPATIONS IN THE DEPARTMENT OF
26 REGULATORY AGENCIES THE INTERIM THERAPEUTIC RESTORATIONS
27 ADVISORY COMMITTEE. THE COMMITTEE CONSISTS OF THE FOLLOWING

1 SEVEN MEMBERS APPOINTED PURSUANT TO SUBSECTION (2) OF THIS
2 SECTION:

3 (a) ONE REPRESENTATIVE FROM AN ACCREDITED DENTAL SCHOOL
4 IN COLORADO;

5 (b) ONE DENTIST WITH A FACULTY APPOINTMENT AT AN
6 ACCREDITED DENTAL SCHOOL IN COLORADO;

7 (c) ONE REPRESENTATIVE FROM AN ACCREDITED DENTAL HYGIENE
8 SCHOOL IN COLORADO;

9 (d) ONE FACULTY MEMBER FROM AN ACCREDITED DENTAL
10 HYGIENE SCHOOL IN COLORADO;

11 (e) ONE REPRESENTATIVE FROM A STATEWIDE ASSOCIATION OF
12 DENTISTS;

13 (f) ONE REPRESENTATIVE FROM A STATEWIDE ASSOCIATION OF
14 DENTAL HYGIENISTS; AND

15 (g) ONE REPRESENTATIVE FROM THE DIVISION OF PROFESSIONS
16 AND OCCUPATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES OR HIS
17 OR HER DESIGNEE.

18 (2) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE
19 PRESIDENT OF THE SENATE SHALL JOINTLY APPOINT ALL MEMBERS OF THE
20 COMMITTEE WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS
21 SECTION. THE PRESIDENT AND THE SPEAKER SHALL ENSURE THAT AT
22 LEAST ONE MEMBER OF THE COMMITTEE IS FROM A RURAL REGION OF THE
23 STATE.

24 (3) THE COMMITTEE SHALL:

25 (a) HOLD ITS FIRST MEETING WITHIN SIXTY DAYS AFTER THE
26 EFFECTIVE DATE OF THIS SECTION;

27 (b) DEVELOP UNIFORM STANDARDS FOR CONSISTENT TRAINING FOR

1 DENTAL HYGIENISTS PERFORMING INTERIM THERAPEUTIC RESTORATIONS;
2 AND

3 (c) SUBMIT THE UNIFORM STANDARDS TO THE BOARD WITHIN ONE
4 HUNDRED TWENTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

5 (4) THE MEMBERS OF THE COMMITTEE SHALL SERVE WITHOUT
6 COMPENSATION.

7 (5) THE DIVISION MAY ACCEPT GIFTS, GRANTS, AND DONATIONS
8 FROM INDIVIDUALS, PRIVATE ORGANIZATIONS, AND FOUNDATIONS FOR THE
9 PURPOSES OF THIS SECTION.

10 (6) THE BOARD MAY ADOPT RULES INCORPORATING THE UNIFORM
11 STANDARDS DEVELOPED BY THE COMMITTEE.

12 (7) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2016.

13 **SECTION 4.** In Colorado Revised Statutes, **add** 12-35-128.5 as
14 follows:

15 **12-35-128.5. Interim therapeutic restorations by dental**
16 **hygienists - permitting process - repeal.** (1) UPON APPLICATION,
17 ACCOMPANIED BY A FEE IN AN AMOUNT DETERMINED BY THE DIRECTOR,
18 THE BOARD SHALL GRANT A PERMIT TO PLACE INTERIM THERAPEUTIC
19 RESTORATIONS TO ANY DENTAL HYGIENIST APPLICANT WHO:

20 (a) HOLDS A LICENSE IN GOOD STANDING TO PRACTICE DENTAL
21 HYGIENE IN COLORADO;

22 (b) HAS COMPLETED A COURSE DEVELOPED AT THE
23 POST-SECONDARY EDUCATIONAL LEVEL THAT COMPLIES WITH THE
24 UNIFORM STANDARDS DEVELOPED, AND RULES ADOPTED, PURSUANT TO
25 SECTION 12-35-128.3. THE COURSE MUST BE OFFERED UNDER THE DIRECT
26 SUPERVISION OF A MEMBER OF THE FACULTY OF A COLORADO DENTAL OR
27 DENTAL HYGIENE SCHOOL ACCREDITED BY THE COMMISSION ON DENTAL

1 ACCREDITATION OR ITS SUCCESSOR AGENCY. ALL FACULTY RESPONSIBLE
2 FOR CLINICAL EVALUATION OF STUDENTS MUST BE DENTISTS WITH A
3 FACULTY APPOINTMENT AT AN ACCREDITED COLORADO DENTAL OR
4 DENTAL HYGIENE SCHOOL.

5 (c) CARRIES CURRENT PROFESSIONAL LIABILITY INSURANCE IN THE
6 AMOUNT SPECIFIED IN SECTION 12-35-141(2), C.R.S.; AND

7 (d) HAS COMPLETED THE FOLLOWING HOURS OF DENTAL HYGIENE
8 PRACTICE AS EVIDENCED IN DOCUMENTATION REQUIRED BY THE BOARD:

9 (I) TWO THOUSAND HOURS OF SUPERVISED DENTAL HYGIENE
10 PRACTICE AFTER INITIAL DENTAL HYGIENE LICENSURE;

11 (II) FOUR THOUSAND HOURS OF UNSUPERVISED DENTAL HYGIENE
12 PRACTICE AFTER INITIAL DENTAL HYGIENE LICENSURE; OR

13 (III) A COMBINATION OF THE HOURS SPECIFIED IN SUBPARAGRAPHS
14 (I) AND (II) OF THIS PARAGRAPH (d) AS DETERMINED BY THE BOARD BY
15 RULE.

16 (2) THE BOARD MAY WAIVE THE REQUIREMENT IN PARAGRAPH (d)
17 OF SUBSECTION (1) OF THIS SECTION FOR A DENTAL HYGIENIST WHO
18 PERFORMS INTERIM THERAPEUTIC RESTORATIONS EXCLUSIVELY UNDER
19 THE DIRECT SUPERVISION OF A DENTIST.

20 (3) A DENTAL HYGIENIST SHALL NOT USE LOCAL ANESTHESIA FOR
21 THE PURPOSE OF PLACING INTERIM THERAPEUTIC RESTORATIONS.

22 (4) (a) A DENTAL HYGIENIST MAY PLACE AN INTERIM THERAPEUTIC
23 RESTORATION ONLY AFTER A DENTIST PROVIDES A DIAGNOSIS, TREATMENT
24 PLAN, AND INSTRUCTION TO PERFORM THE PROCEDURE.

25 (b) IF AN INTERIM THERAPEUTIC RESTORATION IS AUTHORIZED BY
26 A SUPERVISING DENTIST AT A LOCATION OTHER THAN THE DENTIST'S
27 PRACTICE LOCATION, THE DENTAL HYGIENIST SHALL PROVIDE THE PATIENT

1 OR THE PATIENT'S REPRESENTATIVE WITH WRITTEN NOTIFICATION THAT
2 THE CARE WAS PROVIDED AT THE DIRECTION OF THE SUPERVISING DENTIST.
3 THE DENTAL HYGIENIST SHALL INCLUDE IN THE WRITTEN NOTIFICATION
4 THE DENTIST'S NAME, PRACTICE LOCATION ADDRESS, AND TELEPHONE
5 NUMBER.

6 (c) A DENTAL HYGIENIST WHO OBTAINS A DENTIST'S DIAGNOSIS,
7 TREATMENT PLAN, AND INSTRUCTION TO PERFORM AN ITR UTILIZING
8 TELEHEALTH BY STORE-AND-FORWARD TRANSFER SHALL NOTIFY THE
9 PATIENT OF THE PATIENT'S RIGHT TO RECEIVE INTERACTIVE
10 COMMUNICATION WITH THE DISTANT DENTIST UPON REQUEST.
11 COMMUNICATION WITH THE DISTANT DENTIST MAY OCCUR EITHER AT THE
12 TIME OF THE CONSULTATION OR WITHIN THIRTY DAYS AFTER THE DENTAL
13 HYGIENIST NOTIFIES THE PATIENT OF THE RESULTS OF THE CONSULTATION.

14 (5) A DENTAL HYGIENIST WHO OBTAINS A PERMIT PURSUANT TO
15 THIS SECTION MAY PLACE INTERIM THERAPEUTIC RESTORATIONS IN A
16 DENTAL OFFICE SETTING UNDER THE DIRECT OR INDIRECT SUPERVISION OF
17 A DENTIST OR THROUGH TELEHEALTH SUPERVISION FOR PURPOSES OF
18 COMMUNICATION WITH THE DENTIST.

19 (6) A DENTIST SHALL NOT SUPERVISE MORE THAN FIVE DENTAL
20 HYGIENISTS WHO PLACE INTERIM THERAPEUTIC RESTORATIONS UNDER
21 TELEHEALTH SUPERVISION. A DENTIST WHO SUPERVISES A DENTAL
22 HYGIENIST WHO PROVIDES INTERIM THERAPEUTIC RESTORATIONS UNDER
23 TELEHEALTH SUPERVISION MUST HAVE A PHYSICAL PRACTICE LOCATION
24 IN COLORADO FOR PURPOSES OF PATIENT REFERRAL FOR FOLLOW-UP CARE.

25 (7) A DENTAL HYGIENIST SHALL INFORM THE PATIENT OR THE
26 PATIENT'S LEGAL GUARDIAN, IN WRITING, AND REQUIRE THE PATIENT OR
27 THE PATIENT'S LEGAL GUARDIAN TO ACKNOWLEDGE BY SIGNATURE, THAT

1 THE INTERIM THERAPEUTIC RESTORATION IS A TEMPORARY REPAIR TO THE
2 TOOTH AND THAT APPROPRIATE FOLLOW-UP CARE WITH A DENTIST IS
3 NECESSARY.

4 (8) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2021.
5 PRIOR TO THE REPEAL, THE DEPARTMENT OF REGULATORY AGENCIES
6 SHALL REVIEW THE PERMITTING OF DENTAL HYGIENISTS TO PLACE INTERIM
7 THERAPEUTIC RESTORATIONS AS PROVIDED IN SECTION 24-34-104, C.R.S.

8 **SECTION 5.** In Colorado Revised Statutes, 12-35-129, **amend**
9 (1) (ll) and (1) (mm); and **add** (1) (nn) as follows:

10 **12-35-129. Grounds for disciplinary action.** (1) The board may
11 take disciplinary action against an applicant or licensee in accordance
12 with section 12-35-129.1 for any of the following causes:

13 (ll) Administering moderate sedation or deep sedation/general
14 anesthesia without a licensed dentist or other licensed health care
15 professional qualified to administer the relevant level of sedation or
16 anesthesia present in the operatory; ~~or~~

17 (mm) Failing to complete and maintain records of completing
18 continuing education as required by section 12-35-139; OR

19 (nn) FAILING TO COMPLY WITH SECTION 12-35-128.5 REGARDING
20 THE PLACEMENT OF INTERIM THERAPEUTIC RESTORATIONS.

21 **SECTION 6.** In Colorado Revised Statutes, 25.5-5-207, **add** (2)
22 (d) as follows:

23 **25.5-5-207. Adult dental benefit - adult dental fund - creation**
24 **- legislative declaration.** (2) (d) SUBJECT TO FEDERAL AUTHORIZATION
25 AND FEDERAL FINANCIAL PARTICIPATION, ON OR AFTER JULY 1, 2016, THE
26 DIAGNOSIS, DEVELOPMENT OF A TREATMENT PLAN, INSTRUCTION TO
27 PERFORM AN INTERIM THERAPEUTIC RESTORATION PROCEDURE, OR

1 SUPERVISION OF A DENTAL HYGIENIST PERFORMING AN INTERIM
2 THERAPEUTIC RESTORATION PROCEDURE MAY BE PROVIDED THROUGH
3 TELEHEALTH, INCLUDING STORE-AND-FORWARD TRANSFER, IN
4 ACCORDANCE WITH SECTION 25.5-5-321.5.

5 **SECTION 7.** In Colorado Revised Statutes, **add** 25.5-5-321.5 as
6 follows:

7 **25.5-5-321.5. Telehealth - interim therapeutic restorations -**
8 **reimbursement - definitions.** (1) SUBJECT TO FEDERAL AUTHORIZATION
9 AND FEDERAL FINANCIAL PARTICIPATION, ON OR AFTER JULY 1, 2016,
10 IN-PERSON CONTACT BETWEEN A HEALTH CARE PROVIDER AND A
11 RECIPIENT IS NOT REQUIRED UNDER THE STATE'S MEDICAL ASSISTANCE
12 PROGRAM FOR THE DIAGNOSIS, DEVELOPMENT OF A TREATMENT PLAN,
13 INSTRUCTION TO PERFORM AN INTERIM THERAPEUTIC RESTORATION
14 PROCEDURE, OR SUPERVISION OF A DENTAL HYGIENIST PERFORMING AN
15 INTERIM THERAPEUTIC RESTORATION PROCEDURE. A HEALTH CARE
16 PROVIDER MAY PROVIDE THESE SERVICES THROUGH TELEHEALTH,
17 INCLUDING STORE-AND-FORWARD TRANSFER, AND IS ENTITLED TO
18 REIMBURSEMENT FOR THE DELIVERY OF THOSE SERVICES VIA TELEHEALTH
19 TO THE EXTENT THE SERVICES ARE OTHERWISE ELIGIBLE FOR
20 REIMBURSEMENT UNDER THE PROGRAM WHEN PROVIDED IN PERSON. THE
21 SERVICES ARE SUBJECT TO THE REIMBURSEMENT POLICIES DEVELOPED
22 PURSUANT TO THE STATE MEDICAL ASSISTANCE PROGRAM.

23 (2) AS USED IN THIS SECTION:

24 (a) "INTERIM THERAPEUTIC RESTORATION" HAS THE SAME
25 MEANING AS SET FORTH IN SECTION 12-35-103 (10.5), C.R.S.

26 (b) "STORE-AND-FORWARD TRANSFER" MEANS A TELEHEALTH BY
27 STORE-AND-FORWARD TRANSFER, AS DEFINED IN SECTION 12-35-103 (16),

1 C.R.S.

2 **SECTION 8.** In Colorado Revised Statutes, **add** 25.5-8-109.5 as
3 follows:

4 **25.5-8-109.5. Telehealth - interim therapeutic restorations -**
5 **reimbursement - definitions.** (1) SUBJECT TO FEDERAL AUTHORIZATION
6 AND FINANCIAL PARTICIPATION, ON OR AFTER JULY 1, 2016, IN-PERSON
7 CONTACT BETWEEN A HEALTH CARE PROVIDER AND AN ENROLLEE IS NOT
8 REQUIRED UNDER THE CHILDREN'S BASIC HEALTH PLAN FOR THE
9 DIAGNOSIS, DEVELOPMENT OF A TREATMENT PLAN, INSTRUCTION TO
10 PERFORM AN INTERIM THERAPEUTIC RESTORATION PROCEDURE, OR
11 SUPERVISION OF A DENTAL HYGIENIST PERFORMING AN INTERIM
12 THERAPEUTIC RESTORATION PROCEDURE. A HEALTH CARE PROVIDER MAY
13 PROVIDE THESE SERVICES THROUGH TELEHEALTH, INCLUDING
14 STORE-AND-FORWARD TRANSFER, AND IS ENTITLED TO REIMBURSEMENT
15 FOR THE DELIVERY OF THOSE SERVICES VIA TELEHEALTH TO THE EXTENT
16 THE SERVICES ARE OTHERWISE ELIGIBLE FOR REIMBURSEMENT UNDER THE
17 PLAN. THE SERVICES ARE SUBJECT TO THE REIMBURSEMENT POLICIES
18 DEVELOPED PURSUANT TO THE CHILDREN'S BASIC HEALTH PLAN.

19 (2) AS USED IN THIS SECTION:

20 (a) "INTERIM THERAPEUTIC RESTORATION" HAS THE SAME
21 MEANING AS SET FORTH IN SECTION 12-35-103 (10.5), C.R.S.

22 (b) "STORE-AND-FORWARD TRANSFER" MEANS A TELEHEALTH BY
23 STORE-AND-FORWARD TRANSFER, AS DEFINED IN SECTION 12-35-103 (16),
24 C.R.S.

25 **SECTION 9.** In Colorado Revised Statutes, 24-34-104, **add**
26 (52.5) (d) as follows:

27 **24-34-104. General assembly review of regulatory agencies**

1 **and functions for termination, continuation, or reestablishment.**

2 (52.5) The following agencies, functions, or both, terminate on
3 September 1, 2021:

4 (d) THE PERMITTING OF DENTAL HYGIENISTS TO PLACE INTERIM
5 THERAPEUTIC RESTORATIONS PURSUANT TO SECTION 12-35-128.5, C.R.S.

6 **SECTION 10. Act subject to petition - effective date.** This act
7 takes effect at 12:01 a.m. on the day following the expiration of the
8 ninety-day period after final adjournment of the general assembly (August
9 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a
10 referendum petition is filed pursuant to section 1 (3) of article V of the
11 state constitution against this act or an item, section, or part of this act
12 within such period, then the act, item, section, or part will not take effect
13 unless approved by the people at the general election to be held in
14 November 2016 and, in such case, will take effect on the date of the
15 official declaration of the vote thereon by the governor.