

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

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 BOARD MAY ADOPT RULES INCORPORATING THE UNIFORM
6 STANDARDS DEVELOPED BY THE COMMITTEE.

7 (5) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2016.

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

10 **12-35-128.5. Interim therapeutic restorations by dental**
11 **hygienists - permitting process - repeal.** (1) UPON APPLICATION,
12 ACCOMPANIED BY A FEE IN AN AMOUNT DETERMINED BY THE DIRECTOR,
13 THE BOARD SHALL GRANT A PERMIT TO PLACE INTERIM THERAPEUTIC
14 RESTORATIONS TO ANY DENTAL HYGIENIST APPLICANT WHO:

15 (a) HOLDS A LICENSE IN GOOD STANDING TO PRACTICE DENTAL
16 HYGIENE IN COLORADO;

17 (b) HAS COMPLETED A COURSE DEVELOPED AT THE
18 POST-SECONDARY EDUCATIONAL LEVEL THAT COMPLIES WITH THE
19 UNIFORM STANDARDS DEVELOPED PURSUANT TO SECTION 12-35-128.3.
20 THE COURSE MUST BE OFFERED UNDER THE DIRECT SUPERVISION OF A
21 MEMBER OF THE FACULTY OF A COLORADO DENTAL OR DENTAL HYGIENE
22 SCHOOL ACCREDITED BY THE COMMISSION ON DENTAL ACCREDITATION OR
23 ITS SUCCESSOR AGENCY. ALL FACULTY RESPONSIBLE FOR CLINICAL
24 EVALUATION OF STUDENTS MUST BE DENTISTS WITH A FACULTY
25 APPOINTMENT AT AN ACCREDITED COLORADO DENTAL OR DENTAL
26 HYGIENE SCHOOL.

27 (c) CARRIES CURRENT PROFESSIONAL LIABILITY INSURANCE IN THE

1 AMOUNT SPECIFIED IN SECTION 12-35-141(2), C.R.S.; AND

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

4 (I) TWO THOUSAND HOURS OF SUPERVISED DENTAL HYGIENE
5 PRACTICE AFTER INITIAL DENTAL HYGIENE LICENSURE;

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

8 (III) A COMBINATION OF THE HOURS SPECIFIED IN SUBPARAGRAPHS
9 (I) AND (II) OF THIS PARAGRAPH (d) AS DETERMINED BY THE BOARD BY
10 RULE.

11 (2) THE BOARD MAY WAIVE THE REQUIREMENT IN PARAGRAPH (d)
12 OF SUBSECTION (1) OF THIS SECTION FOR A DENTAL HYGIENIST WHO
13 PERFORMS INTERIM THERAPEUTIC RESTORATIONS EXCLUSIVELY UNDER
14 THE DIRECT SUPERVISION OF A DENTIST.

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

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

20 (b) IF AN INTERIM THERAPEUTIC RESTORATION IS AUTHORIZED BY
21 A SUPERVISING DENTIST AT A LOCATION OTHER THAN THE DENTIST'S
22 PRACTICE LOCATION, THE DENTAL HYGIENIST SHALL PROVIDE THE PATIENT
23 OR THE PATIENT'S REPRESENTATIVE WITH WRITTEN NOTIFICATION THAT
24 THE CARE WAS PROVIDED AT THE DIRECTION OF THE SUPERVISING DENTIST.
25 THE DENTAL HYGIENIST SHALL INCLUDE IN THE WRITTEN NOTIFICATION
26 THE DENTIST'S NAME, PRACTICE LOCATION ADDRESS, AND TELEPHONE
27 NUMBER.

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

9 (5) A DENTAL HYGIENIST WHO OBTAINS A PERMIT PURSUANT TO
10 THIS SECTION MAY PLACE INTERIM THERAPEUTIC RESTORATIONS IN A
11 DENTAL OFFICE SETTING UNDER THE DIRECT OR INDIRECT SUPERVISION OF
12 A DENTIST OR THROUGH TELEHEALTH SUPERVISION FOR PURPOSES OF
13 COMMUNICATION WITH THE DENTIST.

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

20 (7) A DENTAL HYGIENIST SHALL INFORM THE PATIENT OR THE
21 PATIENT'S LEGAL GUARDIAN, IN WRITING, AND REQUIRE THE PATIENT OR
22 THE PATIENT'S LEGAL GUARDIAN TO ACKNOWLEDGE BY SIGNATURE, THAT
23 THE INTERIM THERAPEUTIC RESTORATION IS A TEMPORARY REPAIR TO THE
24 TOOTH AND THAT APPROPRIATE FOLLOW-UP CARE WITH A DENTIST IS
25 NECESSARY.

26 (8) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2021.
27 PRIOR TO THE REPEAL, THE DEPARTMENT OF REGULATORY AGENCIES

1 SHALL REVIEW THE PERMITTING OF DENTAL HYGIENISTS TO PLACE INTERIM
2 THERAPEUTIC RESTORATIONS AS PROVIDED IN SECTION 24-34-104, C.R.S.

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

5 **12-35-129. Grounds for disciplinary action.** (1) The board may
6 take disciplinary action against an applicant or licensee in accordance
7 with section 12-35-129.1 for any of the following causes:

8 (ll) Administering moderate sedation or deep sedation/general
9 anesthesia without a licensed dentist or other licensed health care
10 professional qualified to administer the relevant level of sedation or
11 anesthesia present in the operatory; ~~or~~

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

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

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

18 **25.5-5-207. Adult dental benefit - adult dental fund - creation**
19 **- legislative declaration.** (2) (d) SUBJECT TO FEDERAL AUTHORIZATION
20 AND FEDERAL FINANCIAL PARTICIPATION, ON OR AFTER JULY 1, 2016, THE
21 DIAGNOSIS, DEVELOPMENT OF A TREATMENT PLAN, INSTRUCTION TO
22 PERFORM AN INTERIM THERAPEUTIC RESTORATION PROCEDURE, OR
23 SUPERVISION OF A DENTAL HYGIENIST PERFORMING AN INTERIM
24 THERAPEUTIC RESTORATION PROCEDURE MAY BE PROVIDED THROUGH
25 TELEHEALTH, INCLUDING STORE-AND-FORWARD TRANSFER, IN
26 ACCORDANCE WITH SECTION 25.5-5-321.5.

27 **SECTION 7.** In Colorado Revised Statutes, **add** 25.5-5-321.5 as

1 follows:

2 **25.5-5-321.5. Telehealth - interim therapeutic restorations -**
3 **reimbursement - definitions.** (1) SUBJECT TO FEDERAL AUTHORIZATION
4 AND FEDERAL FINANCIAL PARTICIPATION, ON OR AFTER JULY 1, 2016,
5 IN-PERSON CONTACT BETWEEN A HEALTH CARE PROVIDER AND A
6 RECIPIENT IS NOT REQUIRED UNDER THE STATE'S MEDICAL ASSISTANCE
7 PROGRAM FOR THE DIAGNOSIS, DEVELOPMENT OF A TREATMENT PLAN,
8 INSTRUCTION TO PERFORM AN INTERIM THERAPEUTIC RESTORATION
9 PROCEDURE, OR SUPERVISION OF A DENTAL HYGIENIST PERFORMING AN
10 INTERIM THERAPEUTIC RESTORATION PROCEDURE. A HEALTH CARE
11 PROVIDER MAY PROVIDE THESE SERVICES THROUGH TELEHEALTH,
12 INCLUDING STORE-AND-FORWARD TRANSFER, AND IS ENTITLED TO
13 REIMBURSEMENT FOR THE DELIVERY OF THOSE SERVICES VIA TELEHEALTH
14 TO THE EXTENT THE SERVICES ARE OTHERWISE ELIGIBLE FOR
15 REIMBURSEMENT UNDER THE PROGRAM WHEN PROVIDED IN PERSON. THE
16 SERVICES ARE SUBJECT TO THE REIMBURSEMENT POLICIES DEVELOPED
17 PURSUANT TO THE STATE MEDICAL ASSISTANCE PROGRAM.

18 (2) AS USED IN THIS SECTION:

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

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

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

26 **25.5-8-109.5. Telehealth - interim therapeutic restorations -**
27 **reimbursement - definitions.** (1) SUBJECT TO FEDERAL AUTHORIZATION

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

14 (2) AS USED IN THIS SECTION:

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

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

20 **SECTION 9.** In Colorado Revised Statutes, 24-34-104, **add**
21 (52.5) (d) as follows:

22 **24-34-104. General assembly review of regulatory agencies**
23 **and functions for termination, continuation, or reestablishment.**

24 (52.5) The following agencies, functions, or both, terminate on
25 September 1, 2021:

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

1 **SECTION 10. Act subject to petition - effective date.** This act
2 takes effect at 12:01 a.m. on the day following the expiration of the
3 ninety-day period after final adjournment of the general assembly (August
4 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a
5 referendum petition is filed pursuant to section 1 (3) of article V of the
6 state constitution against this act or an item, section, or part of this act
7 within such period, then the act, item, section, or part will not take effect
8 unless approved by the people at the general election to be held in
9 November 2016 and, in such case, will take effect on the date of the
10 official declaration of the vote thereon by the governor.