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Maryland General Assembly
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FISCAL AND POLICY NOTE

House Bill 100 (Delegate Kipke)
Health and Government Operations Education, Health, and Environmental Affairs

Dental Hygienists - Practice in Long-Term Care Facilities - Repeal of Termination Date

This bill makes permanent the provisions of law that authorize a licensed dental hygienist to practice in a long-term care facility under the general supervision of a dentist, by repealing the termination date of Chapter 733 of 2010.

The bill takes effect June 1, 2014.

Fiscal Summary

State Effect: The State Board of Dental Examiners can continue to authorize practice in a long-term care facility with existing budgeted resources.

Local Effect: None.

Small Business Effect: Potential meaningful to the extent that long-term care facilities in Maryland are small businesses.

Analysis

Current Law: Chapter 733 of 2010 authorizes dental hygienists to practice in long-term care facilities, under the general supervision of a dentist, until June 30, 2014. A “long-term care facility” is considered a nursing home or an assisted living program.

In order to practice in these facilities, a dental hygienist and his or her supervising dentist must hold an active license, as well as a current certificate evidencing health provider level C proficiency, or its equivalent, in cardiopulmonary resuscitation (CPR), and have at least two years of active clinical practice in direct patient care. Prior to providing

services in a long-term care facility, a dental hygienist must ensure that the facility has a written medical emergency plan and specified equipment for the delivery of dental hygiene services, including portable equipment and appropriate armamentarium.

To provide services at a long-term care facility, a dental hygienist must have a written agreement with the supervising dentist that sets forth the terms and conditions under which the dental hygienist may practice, including a statement that the dental hygienist may provide dental hygiene services without the supervising dentist on the facility's premises. In addition, a dental hygienist must:

- ensure that the supervising dentist is available for consultation with the dental hygienist in person, by telephone, or electronically;
- consult with the supervising dentist or a treating physician before proceeding with initial treatment if there is a change in a recall patient's medical history;
- assess the appropriate recall interval based on the patient's needs or as recommended by the supervising dentist;
- limit dental hygiene tasks and procedures to toothbrush prophylaxis, application of fluoride, dental hygiene instruction, assessment of the patient's apparent need for further evaluation by a dentist in order to diagnose the presence of dental disease, and other duties as delegated verbally or in writing by the supervising dentist; and
- submit findings of the initial assessment to the supervising dentist for a determination of future treatment.

A dental hygienist may perform subsequent authorized dental hygiene services without the supervising dentist on the premises if the supervising dentist examines the patient and authorizes a prescription of specific treatment, services are provided within seven months of the examination performed by the supervising dentist, and, upon the expiration of a prescribed treatment, the supervising dentist is responsible for future treatment of the patient.

The current law does not:

- authorize a dental hygienist to practice independent of a supervising dentist;
- prohibit a dentist from being available for personal consultation or on the premises where a dental hygienist is practicing;
- prohibit a dental hygienist, without the supervision of a dentist, from performing a preliminary dental examination with subsequent referral to a dentist; or
- require a waiver of a general license to practice dental hygiene.

The bill does not modify these provisions.

Background: According to the American Dental Hygienists' Association, 36 states currently allow some form of "direct access," which means that a dental hygienist may initiate treatment based on his or her assessment of a patient's needs without the specific authorization of a dentist and may treat the patient without the presence of a dentist. The level of direct access varies a great deal from state to state. For example, direct access in Arizona is limited to hygienists working under contract for schools, public health settings, and institutions to screen and apply fluoride while unsupervised. However, in Colorado, a hygienist may provide oral prophylaxis and preventive therapeutic services unsupervised in any setting and may own a dental hygiene practice.

Historically, a dental hygienist in Maryland has practiced under the indirect supervision of a dentist, which means the dentist authorizes the procedure and remains in the office while it is being performed. To more efficiently serve patients and promote proper preventive oral health care, dentistry practices in Maryland have trended toward permitting hygienists to work under less restrictive supervisory requirements. For example:

- Chapters 164 and 165 of 2007 regular session allow a dental hygienist who is authorized to practice under a licensed dentist's general supervision in a government-owned and -operated facility or public health department to apply fluoride, mouth rinse, or varnish.
- Chapter 316 of 2008 authorizes a dental hygienist who is a permanent or contractual employee of the federal government, a State or local government, or a federally qualified health center, and working in specified facilities to apply fluoride and sealants under the general supervision of a licensed dentist. Chapter 316 also expands the types of facilities in which a dental hygienist may practice under general supervision, specifies that these facilities are not required to obtain a general supervision waiver, and repeals the requirement that a dentist or physician evaluate or diagnose a patient before a dental hygienist can treat the patient in these facilities.
- Chapters 565 and 566 of 2009 expand the scope of practice for a dental hygienist by allowing a dental hygienist to perform manual curettage in conjunction with scaling and root planing, and to administer local anesthesia.
- Chapter 733 of 2010 authorizes a dental hygienist to practice in a long-term care facility under the general supervision of a dentist.
- Chapters 271 and 272 of 2011 allow a dental hygienist to monitor a patient to whom nitrous oxide is being administered.
- Chapter 220 of 2012 also allows dental hygienists to administer local anesthesia by inferior alveolar nerve block.

Most of these authorizations for dental hygienists are permanent. However, the authorization to practice in a long-term care facility under the general supervision of a dentist (Chapter 733) has a sunset date of June 30, 2014. Likewise, the authorization to monitor a patient to whom nitrous oxide is being administered (Chapters 271 and 272) is set to sunset on September 30, 2014.

The Department of Health and Mental Hygiene (DHMH) recently submitted its *2013 Legislative Report on Dental Hygienists in Long-Term Health Care Facilities*, as required by Chapter 733 of 2010. The report evaluates the use, effectiveness, and impact of Chapter 733, which authorizes dental hygienists to provide services in long-term care facilities. DHMH concluded that there is still a significant need for increased dental hygiene services at long-term care facilities and that, although the majority of dental hygienists are qualified to work at these facilities, they do not because there are not enough supervising dentists providing care to this population. The report also stated that no complaints have been filed against dental hygienists providing services in long-term facilities pursuant to Chapter 733.

In fiscal 2014, there were 2,881 licensed dental hygienists in the State.

Small Business Effect: Although it is unknown how many long-term care facilities are considered small businesses, allowing a dental hygienist to practice without the physical presence of a supervising dentist will free up a supervising dentist's time, allowing the dentist to focus more on other patients.

Additional Comments: If enacted, HB 101 of 2014 would make permanent the authorization for a dental hygienist to monitor a patient to whom nitrous oxide is being administered, by repealing the termination date of Chapters 271 and 272 of 2011.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Department of Legislative Services

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