

# SENATE BILL 18

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By: **Senator Conway**

Introduced and read first time: January 15, 2015

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Dental Examiners – Dentists and Dental Hygienists – Grounds**  
3 **for Discipline**

4 FOR the purpose of adding certain grounds on which the State Board of Dental Examiners  
5 may take certain disciplinary action against applicants for a license to practice  
6 dentistry or dental hygiene, licensed dentists, or licensed dental hygienists; and  
7 generally relating to the discipline of applicants for licensure and licensees of the  
8 State Board of Dental Examiners.

9 BY repealing and reenacting, with amendments,  
10 Article – Health Occupations  
11 Section 4–315  
12 Annotated Code of Maryland  
13 (2014 Replacement Volume)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
15 That the Laws of Maryland read as follows:

16 **Article – Health Occupations**

17 4–315.

18 (a) Subject to the hearing provisions of § 4–318 of this subtitle, the Board may  
19 deny a general license to practice dentistry, a limited license to practice dentistry, or a  
20 teacher’s license to practice dentistry to any applicant, reprimand any licensed dentist,  
21 place any licensed dentist on probation, or suspend or revoke the license of any licensed  
22 dentist, if the applicant or licensee:

23 (1) Fraudulently or deceptively obtains or attempts to obtain a license for  
24 the applicant or licensee or for another;

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) Fraudulently or deceptively uses a license;

2 (3) Obtains a fee by fraud or attempts to obtain a fee by fraud;

3 (4) Is convicted of or pleads guilty or nolo contendere to a felony or to a  
4 crime involving moral turpitude, whether or not any appeal or other proceeding is pending  
5 to have the conviction or plea set aside;

6 **(5) PHYSICALLY OR VERBALLY HARASSES OR ABUSES A PATIENT;**

7 **(6) IS HABITUALLY INTOXICATED;**

8 ~~[(5)]~~ **(7)** Provides professional services while:

9 (i) Under the influence of alcohol; or

10 (ii) Using any narcotic or controlled dangerous substance, as defined  
11 in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic  
12 amounts or without valid medical indication;

13 ~~[(6)]~~ **(8)** Practices dentistry in a professionally incompetent manner or in  
14 a grossly incompetent manner;

15 ~~[(7)]~~ **(9)** Has had a license to practice dentistry revoked or suspended in  
16 any other state;

17 ~~[(8)]~~ **(10)** Uses another person as an in–person solicitor of business;

18 **(11) DIRECTLY OR INDIRECTLY PAYS OR AGREES TO PAY ANY SUM OR**  
19 **OTHER CONSIDERATION TO ANY PERSON, OR ACCEPTS OR AGREES TO ACCEPT ANY**  
20 **SUM OR OTHER CONSIDERATION FROM ANY PERSON, FOR BRINGING OR REFERRING**  
21 **A PATIENT, UNLESS THE PERSON IS ANOTHER DENTIST WHO IS A PARTNER OR AN**  
22 **ASSOCIATE IN THE SAME DENTAL PRACTICE;**

23 ~~[(9)]~~ **(12)** Practices or offers to practice dentistry under a name other than  
24 that on the license;

25 ~~[(10)]~~ **(13)** Uses in connection with the practice of dentistry a business  
26 entity name or a trade name that is not authorized by law;

27 ~~[(11)]~~ **(14)** Permits an unauthorized individual to practice dentistry under  
28 the supervision of the applicant or licensee;

29 ~~[(12)]~~ **(15)** Permits a dental hygienist to practice dental hygiene;

1 (i) In an unauthorized place; or

2 (ii) Without being supervised by a licensed dentist as required by §  
3 4–308 of this subtitle;

4 **(16) FAILS TO EXERCISE REASONABLE DILIGENCE TO PREVENT**  
5 **PARTNERS, ASSOCIATES, EMPLOYEES, OR INDEPENDENT CONTRACTORS WITH**  
6 **WHOM THE LICENSEE HAS A CONTRACTUAL RELATIONSHIP FROM ENGAGING IN**  
7 **CONDUCT THAT WOULD VIOLATE:**

8 **(I) THE MARYLAND DENTISTRY ACT;**

9 **(II) THE BOARD’S REGULATIONS; OR**

10 **(III) ANY OTHER LAW RELATED TO THE PRACTICE OF**  
11 **DENTISTRY;**

12 **(17) FAILS TO EXERCISE REASONABLE DILIGENCE TO ENSURE THAT**  
13 **PARTNERS, ASSOCIATES, EMPLOYEES, OR INDEPENDENT CONTRACTORS WITH**  
14 **WHOM THE LICENSEE HAS A CONTRACTUAL RELATIONSHIP HAVE AND MAINTAIN**  
15 **CURRENT LICENSES, PERMITS, CERTIFICATIONS, OR RECOGNITIONS ISSUED BY:**

16 **(I) THE BOARD;**

17 **(II) THE DIVISION OF DRUG CONTROL; OR**

18 **(III) THE FEDERAL FOOD AND DRUG ADMINISTRATION;**

19 **[(13)] (18)** Violates any restriction on advertising in § 4–503 of this title;

20 **[(14)] (19)** Suggests, requests, or in any way directs that a patient appear  
21 at a dental laboratory;

22 **[(15)] (20)** Violates any provision in Subtitle 4 of this title, which relates to  
23 work authorizations for dental laboratory work;

24 **[(16)] (21)** Behaves dishonorably or unprofessionally, or violates a  
25 professional code of ethics pertaining to the dentistry profession;

26 **[(17)] (22)** Is mentally or physically incompetent to practice dentistry;

27 **[(18)] (23)** Demonstrates a course of conduct of providing dental care that is  
28 inconsistent with generally accepted professional standards of care in the practice of  
29 dentistry, regardless of whether actual injury to the patient occurs;

1            **[(19)] (24)** Provides a dental service in a manner that is significantly  
2 inconsistent with generally accepted professional standards of care in the practice of  
3 dentistry, regardless of whether actual injury to the patient occurs;

4            **[(20)] (25)** Violates any rule or regulation adopted by the Board;

5            **[(21)] (26)** Is disciplined by a licensing or disciplinary authority of any other  
6 state or country or convicted or disciplined by a court of any state or country for an act that  
7 would be grounds for disciplinary action under the Board's disciplinary statutes;

8            **[(22)] (27)** Willfully makes or files a false report or record in the practice of  
9 dentistry;

10           **[(23)] (28)** Willfully fails to file or record any report as required by law,  
11 willfully impedes or obstructs the filing or recording of the report, or induces another to fail  
12 to file or record the report;

13           **[(24)] (29)** Knowingly submits to a third party any claim form, bill, or  
14 statement which contains any misleading, deceptive, false, incomplete, or fraudulent  
15 representation asserting a fee which is greater than the fee that the dentist usually accepts  
16 as payment in full for any given dental appliance, procedure, or service;

17           **[(25)] (30)** Abrogates or forgives the copayment provisions of any insurance  
18 policy, insurance contract, health prepayment contract, health care plan, or nonprofit  
19 health service plan contract by accepting the payment received from a third party as full  
20 payment, unless the dentist discloses to the third party that the patient's payment portion  
21 will not be collected;

22           **(31) GROSSLY OVERUTILIZES DENTAL SERVICES OR CHARGES FOR**  
23 **SERVICES NOT RENDERED;**

24           **(32) PRE-SIGNS BLANK PRESCRIPTION FORMS OR USES PREPRINTED,**  
25 **RUBBER-STAMPED PRESCRIPTION FORMS SHOWING A DENTIST'S SIGNATURE;**

26           **[(26)] (33)** Uses or promotes or causes the use of any misleading, deceiving,  
27 or untruthful advertising matter, promotional literature, or testimonial;

28           **[(27)] (34)** (i) Except as provided in subparagraph (ii) of this paragraph,  
29 divides a fee with another dentist if the division is not in proportion to the services  
30 performed and the responsibility assumed by each dentist;

31           (ii) A dentist may divide a fee with another dentist who is a partner  
32 or an associate in the same dental practice if dividing the fee does not increase the fee for  
33 the service charged to the patient;

34           **[(28)] (35)** Fails to comply with the provisions of § 12-102 of this article;

1            ~~[(29)]~~ **(36)** Refuses, withholds from, denies, or discriminates against an  
2 individual with regard to the provision of professional services for which the licensee is  
3 licensed and qualified to render because the individual is HIV positive;

4            ~~[(30)]~~ **(37)** Except in an emergency life-threatening situation where it is not  
5 feasible or practicable, fails to comply with the Centers for Disease Control and  
6 Prevention's guidelines on universal precautions;

7            ~~[(31)]~~ **(38)** Fails to display the notice required under § 4-313(d) of this  
8 subtitle;

9            ~~[(32)]~~ **(39)** Fails to begin to fulfill a public service requirement within 1 year  
10 of when the assignment is to begin that was a condition of the applicant or licensee  
11 receiving State or federal loans or scholarships for the applicant's or licensee's dental  
12 education;

13            ~~[(33)]~~ **(40)** Fails to comply with any Board order; [or

14            ~~[(34)]~~ **(41)** Willfully and without legal justification, fails to cooperate with a  
15 lawful investigation conducted by the Board;

16            **(42) PRESENTS FALSE DOCUMENTS, TESTIMONY, OR STATEMENTS TO**  
17 **THE BOARD, THE OFFICE OF ADMINISTRATIVE HEARINGS OR ANOTHER**  
18 **ADMINISTRATIVE AGENCY, OR A COURT;**

19            **(43) BY CORRUPT MEANS, THREATS, OR FORCE, INTIMIDATES OR**  
20 **INFLUENCES, OR ATTEMPTS TO INTIMIDATE OR INFLUENCE, ANY PERSON TO**  
21 **WITHHOLD OR CHANGE TESTIMONY IN A HEARING OR PROCEEDING BEFORE THE**  
22 **BOARD, THE OFFICE OF ADMINISTRATIVE HEARINGS OR ANOTHER**  
23 **ADMINISTRATIVE AGENCY, OR A COURT; OR**

24            **(44) BY CORRUPT MEANS, THREATS, OR FORCE, HINDERS, PREVENTS,**  
25 **OR OTHERWISE DELAYS ANY PERSON FROM MAKING INFORMATION AVAILABLE TO**  
26 **THE BOARD, THE OFFICE OF ADMINISTRATIVE HEARINGS OR ANOTHER**  
27 **ADMINISTRATIVE AGENCY, OR A LAW ENFORCEMENT AGENCY IN FURTHERANCE OF**  
28 **AN INVESTIGATION.**

29            (b) Subject to the hearing provisions of § 4-318 of this subtitle, the Board may  
30 deny a general license to practice dental hygiene, a teacher's license to practice dental  
31 hygiene, or a temporary license to practice dental hygiene to any applicant, reprimand any  
32 licensed dental hygienist, place any licensed dental hygienist on probation, or suspend or  
33 revoke the license of any licensed dental hygienist, if the applicant or licensee:

1 (1) Fraudulently or deceptively obtains or attempts to obtain a license for  
2 the applicant or licensee or for another;

3 (2) Fraudulently or deceptively uses a license;

4 (3) Behaves unprofessionally or in a grossly immoral way, or violates a  
5 professional code of ethics pertaining to the dental hygiene profession;

6 (4) Practices dental hygiene in an unauthorized place;

7 (5) Practices dental hygiene in a professionally incompetent manner or in  
8 a grossly incompetent manner;

9 **(6) DIRECTLY OR INDIRECTLY PAYS OR AGREES TO PAY ANY SUM OR**  
10 **OTHER CONSIDERATION TO ANY PERSON, OR ACCEPTS OR AGREES TO ACCEPT ANY**  
11 **SUM OR OTHER CONSIDERATION FROM ANY PERSON, FOR BRINGING OR REFERRING**  
12 **A PATIENT;**

13 ~~[(6)]~~ **(7)** Is disciplined by a licensing or disciplinary authority of any other  
14 state or country or convicted or disciplined by a court of any state or country for an act that  
15 would be grounds for disciplinary action under the Board's disciplinary statutes;

16 ~~[(7)]~~ **(8)** Performs intraoral functions not authorized by statute or the  
17 rules and regulations of the Board;

18 ~~[(8)]~~ **(9)** Violates the requirements of § 4–313 of this subtitle that relate  
19 to display of licenses and renewal certificates;

20 ~~[(9)]~~ **(10)** Violates any rule or regulation adopted by the Board;

21 ~~[(10)]~~ **(11)** Is mentally or physically incompetent to practice dental hygiene;

22 ~~[(11)]~~ **(12)** Demonstrates a course of conduct of providing dental hygiene  
23 care that is inconsistent with generally accepted professional standards of care in the  
24 practice of dental hygiene, regardless of whether actual injury to the patient occurs;

25 ~~[(12)]~~ **(13)** Provides a dental hygiene service in a manner that is  
26 significantly inconsistent with generally accepted professional standards of care in the  
27 practice of dental hygiene, regardless of whether actual injury to the patient occurs;

28 ~~[(13)]~~ **(14)** Is convicted of or pleads guilty or nolo contendere to a felony or  
29 to a crime involving moral turpitude, whether or not any appeal or other proceeding is  
30 pending to have the conviction or plea set aside;

31 **(15) PHYSICALLY OR VERBALLY HARASSES OR ABUSES A PATIENT;**

1           **(16) IS HABITUALLY INTOXICATED;**

2           **[(14)] (17)** Provides professional services while:

3                   (i) Under the influence of alcohol; or

4                   (ii) Using any narcotic or controlled dangerous substance, as defined  
5 in § 5–101 of the Criminal Law Article, or other drug that is in excess of therapeutic  
6 amounts or without valid medical indication;

7           **[(15)] (18)** Willfully makes or files a false report or record in the practice of  
8 dental hygiene;

9           **[(16)] (19)** Willfully fails to file or record any report as required by law,  
10 willfully impedes or obstructs the filing or recording of the report, or induces another to fail  
11 to file or record the report;

12           **[(17)] (20)** Refuses, withholds from, denies, or discriminates against an  
13 individual with regard to the provision of professional services for which the licensee is  
14 licensed and qualified to render because the individual is HIV positive;

15           **[(18)] (21)** Except in an emergency life–threatening situation where it is not  
16 feasible or practicable, fails to comply with the Centers for Disease Control and  
17 Prevention’s guidelines on universal precautions;

18           **[(19)] (22)** Fails to comply with any Board order; [or

19                   (20)] **(23)** Willfully and without legal justification, fails to cooperate with a  
20 lawful investigation conducted by the Board;

21           **(24) PRESENTS FALSE DOCUMENTS, TESTIMONY, OR STATEMENTS TO**  
22 **THE BOARD, THE OFFICE OF ADMINISTRATIVE HEARINGS OR ANOTHER**  
23 **ADMINISTRATIVE AGENCY, OR A COURT;**

24           **(25) BY CORRUPT MEANS, THREATS, OR FORCE, INTIMIDATES OR**  
25 **INFLUENCES, OR ATTEMPTS TO INTIMIDATE OR INFLUENCE, ANY PERSON TO**  
26 **WITHHOLD OR CHANGE TESTIMONY IN A HEARING OR PROCEEDING BEFORE THE**  
27 **BOARD, THE OFFICE OF ADMINISTRATIVE HEARINGS OR ANOTHER**  
28 **ADMINISTRATIVE AGENCY, OR A COURT; OR**

29           **(26) BY CORRUPT MEANS, THREATS, OR FORCE, HINDERS, PREVENTS,**  
30 **OR OTHERWISE DELAYS ANY PERSON FROM MAKING INFORMATION AVAILABLE TO**  
31 **THE BOARD, THE OFFICE OF ADMINISTRATIVE HEARINGS OR ANOTHER**  
32 **ADMINISTRATIVE AGENCY, OR A LAW ENFORCEMENT AGENCY IN FURTHERANCE OF**  
33 **ANY INVESTIGATION.**

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
2 1, 2015.