

SENATE BILL 205

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By: **Senator Conway**

Introduced and read first time: February 2, 2015

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Dentists and Dental Hygienists – Misrepresentation and Practicing Without a**
3 **License – Penalties**

4 FOR the purpose of authorizing the State Board of Dental Examiners to issue a cease and
5 desist order or obtain injunctive relief against a certain person under certain
6 circumstances; establishing that, for a certain cease and desist order, proof is not
7 required of actual damage or that any person will sustain any damage if a cease and
8 desist order is not issued; establishing that a certain injunction or cease and desist
9 order is in addition to and not instead of certain criminal prosecution or disciplinary
10 action; prohibiting a person from practicing, attempting to practice, or offering to
11 practice dental hygiene unless licensed by the Board; prohibiting a person from
12 aiding or abetting the unlicensed practice of dental hygiene in the State; prohibiting
13 a person from representing to the public that the person is authorized to practice
14 dental hygiene in the State unless licensed by the Board to practice dental hygiene;
15 altering certain penalties for a violation of certain provisions of law governing the
16 practice of dentistry and dental hygiene; establishing a certain exception to the
17 imposition of certain criminal penalties and civil fines for a licensee who has failed
18 to renew a license under certain circumstances; altering certain penalties for a
19 person who violates certain provisions of law relating to dental laboratory work or
20 advertising a dental appliance; establishing certain penalties for a person who aids
21 or abets the unlicensed practice of dentistry; making certain stylistic, clarifying, and
22 conforming changes; and generally relating to the practice of dentistry and dental
23 hygiene in the State.

24 BY repealing and reenacting, with amendments,
25 Article – Health Occupations
26 Section 4–320, 4–601, 4–602, and 4–606
27 Annotated Code of Maryland
28 (2014 Replacement Volume)

29 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Health Occupations
2 Section 4–602.1, 4–602.2, and 4–607
3 Annotated Code of Maryland
4 (2014 Replacement Volume)

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

7 **Article – Health Occupations**

8 4–320.

9 (a) [An action may be maintained in the name of this State or the Board to enjoin]
10 **THE BOARD MAY ISSUE A CEASE AND DESIST ORDER OR OBTAIN INJUNCTIVE RELIEF**
11 **AGAINST A PERSON FOR:**

12 (1) [Unauthorized practice of] **PRACTICING** dentistry or dental hygiene
13 **WITHOUT A LICENSE;**

14 (2) **REPRESENTING TO THE PUBLIC BY TITLE, BY DESCRIPTION OF**
15 **SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE THAT THE PERSON IS**
16 **LICENSED TO PRACTICE DENTISTRY OR DENTAL HYGIENE IN THIS STATE WHEN THE**
17 **PERSON IS NOT LICENSED;**

18 (3) **ADMINISTERING ANESTHESIA OR SEDATION WITHOUT A PERMIT;**

19 (4) **PRACTICING DENTAL RADIATION TECHNOLOGY WITHOUT A**
20 **CERTIFICATE;**

21 (5) **PRACTICING BEYOND THE SCOPE OF BASIC DENTAL ASSISTING,**
22 **AS DEFINED IN REGULATION, WITHOUT BOARD RECOGNITION;**

23 (6) **PRACTICING BEYOND THE LAWFUL SCOPE OF PRACTICE OF A**
24 **LICENSEE;**

25 [(2)] (7) Conduct that is a ground for disciplinary action under § 4–315(a)
26 of this subtitle;

27 [(3)] (8) Conduct that violates any prohibition in Subtitle 4 of this title,
28 which relates to dental laboratory work; [or]

29 [(4)] (9) Conduct that violates the practice limitations of § 4–603 of this
30 title; **OR**

31 (10) **TAKING ANY ACTION:**

1 **(I) FOR WHICH THE BOARD DETERMINES THERE IS EVIDENCE**
2 **OF GROUNDS FOR DISCIPLINE UNDER § 4-315 OF THIS SUBTITLE; AND**

3 **(II) THAT POSES A SERIOUS RISK TO THE HEALTH, SAFETY, OR**
4 **WELFARE OF A PATIENT.**

5 (b) An action under this section may be brought by:

6 (1) The Board, in its own name;

7 (2) The Attorney General, in the name of this State; or

8 (3) A State's Attorney, in the name of this State.

9 (c) An action **FOR AN INJUNCTION** under this section shall be brought in the
10 county where the defendant:

11 (1) Resides; or

12 (2) Engages in the acts sought to be enjoined.

13 (d) Proof of actual damage or that any person will sustain any damage if an
14 injunction is not granted is not required for an action **FOR AN INJUNCTION** under this
15 section.

16 **(E) FOR A CEASE AND DESIST ORDER UNDER THIS SECTION, PROOF IS NOT**
17 **REQUIRED OF ACTUAL DAMAGE OR THAT ANY PERSON WILL SUSTAIN ANY DAMAGE**
18 **IF A CEASE AND DESIST ORDER IS NOT ISSUED.**

19 **[(e)] (F)** An **[action] INJUNCTION OR CEASE AND DESIST ORDER** under this
20 section is in addition to and not instead of criminal prosecution for **[unauthorized] THE**
21 **UNLICENSED** practice of dentistry under § 4-601 of this title, **THE UNLICENSED**
22 **PRACTICE OF DENTAL HYGIENE UNDER § 4-602.1 OF THIS TITLE**, or disciplinary action
23 under § 4-315 of this subtitle.

24 4-601.

25 (a) Except as otherwise provided in this title, a person may not practice, attempt
26 to practice, or offer to practice dentistry **[or dental hygiene]** on **[a human being] AN**
27 **INDIVIDUAL** in this State unless licensed by the Board.

28 (b) A person may not aid or abet **[unauthorized] THE UNLICENSED** practice of
29 **[dental hygiene] DENTISTRY** in this State.

1 4-602.

2 (a) [(1)] Except as otherwise provided in this section, unless [authorized]
3 LICENSED to practice dentistry under this title, a person may not represent to the public
4 by title, by description of services, methods, or procedures, or otherwise, that the person is
5 authorized to practice dentistry in this State.

6 [(2)] Unless authorized to practice dental hygiene under this title, a person
7 may not represent to the public by title, by description of services, methods, or procedures,
8 or otherwise, that the person is authorized to practice dental hygiene in this State.]

9 (b) This title does not affect the right of a holder of a dental degree who does not
10 directly or indirectly practice or attempt to practice dentistry in this State to use the degree
11 or an abbreviation for the degree in connection with the name of the holder.

12 **4-602.1.**

13 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A PERSON MAY NOT
14 PRACTICE, ATTEMPT TO PRACTICE, OR OFFER TO PRACTICE DENTAL HYGIENE ON
15 AN INDIVIDUAL IN THIS STATE UNLESS LICENSED BY THE BOARD.

16 (B) A PERSON MAY NOT AID OR ABET THE UNLICENSED PRACTICE OF
17 DENTAL HYGIENE IN THIS STATE.

18 **4-602.2.**

19 UNLESS LICENSED TO PRACTICE DENTAL HYGIENE UNDER THIS TITLE, A
20 PERSON MAY NOT REPRESENT TO THE PUBLIC BY TITLE, BY DESCRIPTION OF
21 SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE PERSON IS
22 AUTHORIZED TO PRACTICE DENTAL HYGIENE IN THIS STATE.

23 4-606.

24 (a) [A] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A person
25 who practices or attempts to practice dentistry without a license in violation of §
26 4-601(a) of this subtitle or represents to the public in violation of § 4-602 of this subtitle
27 that the person is authorized to practice dentistry is guilty of a [misdemeanor] FELONY
28 and on conviction is subject to:

29 (1) [For a first offense, a fine not exceeding \$2,000 or imprisonment in jail
30 not exceeding 6 months; or] A FINE NOT EXCEEDING \$10,000 OR IMPRISONMENT NOT
31 EXCEEDING 5 YEARS OR BOTH; AND

1 (2) [For a subsequent offense, a fine not exceeding \$6,000 or imprisonment
2 in the State penitentiary not exceeding 1 year] **A CIVIL FINE NOT EXCEEDING \$50,000**
3 **TO BE LEVIED BY THE BOARD.**

4 **(B) THE PROVISIONS OF SUBSECTION (A) OF THIS SECTION DO NOT APPLY**
5 **TO A LICENSEE WHO HAS FAILED TO RENEW A LICENSE UNDER § 4-309 OF THIS**
6 **TITLE, IF:**

7 **(1) LESS THAN 6 MONTHS HAVE ELAPSED SINCE THE EXPIRATION OF**
8 **THE LICENSE; AND**

9 **(2) THE LICENSEE HAS APPLIED FOR RENEWAL OF THE LICENSE AND**
10 **PAID THE FULL RENEWAL FEE.**

11 **[(b)] (C)** A person who practices or attempts to practice dental hygiene without
12 a license in violation of [~~§ 4-601(a)~~] **§ 4-602.1(A)** of this subtitle, aids or abets **THE**
13 unauthorized practice of dental hygiene in violation of [~~§ 4-601(b)~~] **§ 4-602.1(B)** of this
14 subtitle, or represents to the public in violation of [~~§ 4-602~~] **§ 4-602.2** of this subtitle that
15 the person is authorized to practice dental hygiene is guilty of a misdemeanor and on
16 conviction is subject to a fine not exceeding [~~\$1,000~~] **\$3,000 OR IMPRISONMENT NOT**
17 **EXCEEDING 1 YEAR OR BOTH.**

18 **[(c)] (D)** A person who violates any provision of Subtitle 4 of this title, which
19 relates to dental laboratory work, or who advertises a dental appliance in violation of §
20 4-503(c) of this title is guilty of a misdemeanor and on conviction is subject to a fine not
21 exceeding [~~\$2,000~~] **\$3,000** or imprisonment [~~in jail~~] not exceeding 6 months **OR BOTH.**

22 **4-607.**

23 **A PERSON WHO AIDS OR ABETS THE UNLICENSED PRACTICE OF DENTISTRY IN**
24 **THIS STATE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A**
25 **FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.**

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
27 1, 2015.