

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 738

(Delegate Kipke, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

Dental Hygienist – Scope of Practice – Practice Settings Under General Supervision

This bill authorizes a dental hygienist practicing under the general supervision of a licensed dentist to practice in a “facility” rather than only in a long-term care facility and alters the requirements that a dental hygienist must follow when practicing under the general supervision of a dentist, both with and without the presence of the supervising dentist. The bill also makes conforming changes.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations.

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Definitions

“Facility” means (1) a nursing home; (2) an assisted living program; (3) medical offices; or (4) a group home or adult day care center.

“Group home or adult day care center” means a group home or adult day care center where the patient’s medical records are made available to the dentist and the dental hygienist and

that obtains the consent of the patient or the patient's guardian for dental hygiene services to be provided.

“Medical office” means an office of a licensed physician who provides prenatal or primary medical care and in which the physician, supervising dentist, and dental hygienist communicate in providing dental hygiene services to a patient.

Dental Hygienist – Practice under the General Supervision of a Dentist

The bill specifies that before a dental hygienist may practice under general supervision in a facility, both the dental hygienist and the dentist must have at least 3,000 hours, rather than two years, of active clinical practice in direct patient care.

The dentist must also have a written agreement with the dental hygienist that (1) clearly sets forth the terms and conditions under which the dental hygienist may practice, including a statement of when the dental hygienist may provide dental hygiene services without the presence of the supervising dentist; (2) indicates the population to be served; (3) states the method by which the services are to be provided and the procedures to be used by the supervising dentist to oversee and direct the dental hygienist; and (4) states the names and license numbers of the dentist and dental hygienist under the written agreement.

Dental Hygienists – Practice with the Presence of the Supervising Dentist

The bill adds clarifying language to existing requirements for dental hygienists practicing in a facility. A dental hygienist must (1) ensure that, *while the dental hygienist is performing the service*, the supervising dentist is available through specified means for consultation with the dental hygienist; (2) consult with the supervising dentist or a treating physician before proceeding with initial treatment if there is a change in *or concerns about* a patient's medical history; (3) assess the appropriate recall interval based on the needs of the patient, or as otherwise recommended by the supervising dentist; (4) limit dental hygiene tasks and procedures *provided during the initial appointment* to those specified under current law and *full mouth debridement*; and (5) submit findings of the initial assessment to the supervising dentist for a *collaborative* determination of future treatment *based on the patient's overall health status*.

Dental Hygienists – Practice without the Presence of the Supervising Dentist

A dental hygienist may perform subsequent authorized dental hygiene services *following the initial appointment* without the presence of the supervising dentist if (1) the supervising dentist examines the *patient and the patient's charts and other dental records*, authorizes in the patient's record *the scope of* a prescription of specific treatment to be provided by the dental hygienist, and *examines the patient at least once every 12 months (or more*

frequently as determined by the dentist); (2) an authorized treatment is provided by the dental hygienist as soon as possible but within seven months from the time the *patient and the patient's charts and other dental records were reviewed*; and (3) *on completion of the treatment prescribed following the initial appointment*, the supervising dentist, *in consultation with the dental hygienist, determines* future protocols for the treatment of the patient.

If a dental hygienist performs dental hygiene services as authorized without the presence of the supervising dentist, the dental hygienist must (1) assess the appropriate recall interval based on the needs of the patient in consultation with the supervising dentist; (2) limit services to preventive services under the scope of practice of a licensed dental hygienist that do not require a licensed dentist to be on the premises when the services are performed; and (3) report patient clinical findings to determine whether the patient should be referred for a follow-up examination with or care by the supervising dentist.

Current Law: A dental hygienist may practice under the general supervision of a licensed dentist in a long-term care facility (a nursing home or an assisted living program) if the dental hygienist holds an active license to practice dental hygiene in the State; holds a current certificate evidencing health provider level C proficiency, or its equivalent, in cardiopulmonary resuscitation; and has at least two years of active clinical practice in direct patient care.

Before a dental hygienist may practice in such a facility, the dental hygienist must ensure that the facility has a written medical emergency plan and adequate equipment and safeguards. The dental hygienist must also consult with the supervising dentist or treating physician before proceeding with initial treatment if there is a change in a recall patient's medical history. Dental hygiene procedures are limited to specific tasks and procedures, unless otherwise delegated by the supervising dentist, including (1) toothbrush prophylaxis; (2) application of fluoride; (3) dental hygiene instruction; and (4) assessing the patient's apparent need for further evaluation by a dentist in order to diagnose the presence of dental disease. A dental hygienist may perform subsequent authorized dental hygiene services without the supervising dentist on the premises only under specified circumstances.

Additionally, a dental hygienist may practice under the general supervision of a licensed dentist in (1) a dental facility owned and operated by the government; (2) a State or county public health department or public school; (3) a facility in which a Maryland Department of Health (MDH)-licensed program operates; (4) a facility owned and operated by the Department of Juvenile Services; (5) a facility owned and operated by the State or a local government that provides medical care to the poor, elderly, or handicapped; (6) a facility in which a federally qualified health center (FQHC) or FQHC look-alike is located; or (7) a facility in which a State-licensed Head Start or Early Head Start Program operates.

Pursuant to Chapters 271 and 272 of 2013, dental hygienists may perform the following procedures and activities without the supervision of a dentist, but without compensation, at a community-based health fair sponsored by the government or a nonprofit organization: (1) preliminary dental examination; (2) oral health education; (3) blood pressure, pulse, respiration, and height and weight measurements; and (4) referrals to dental homes. Dental hygienists must submit a specified form for each patient served at a community-based health fair to MDH's Office of Oral Health.

Background: A licensed dental hygienist has long been authorized to perform a preliminary dental exam; perform a complete prophylaxis, including the removal of any deposit, accretion, or stain from the tooth surface or restoration; polish a tooth or restoration; chart cavities, restorations, missing teeth, periodontal conditions, and other features observed; apply a medicinal agent to a tooth for a prophylactic purpose; take a dental X-ray; or perform any other intraoral function authorized by the State Board of Dental Examiners.

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 allowed 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 authorized a dental hygienist who is a permanent or contractual employee of the federal government, a State or local government, or an FQHC and working in specified facilities to apply fluoride and sealants under the general supervision of a licensed dentist. Chapter 316 also expanded the types of facilities in which a dental hygienist may practice under general supervision, specified that these facilities are not required to obtain a general supervision waiver, and repealed 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 expanded 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 authorized a dental hygienist to practice in a long-term care facility under the general supervision of a dentist. Chapter 381 of 2014 made these provisions permanent.

- Chapters 271 and 272 of 2011 allowed a dental hygienist to monitor a patient to whom nitrous oxide is being administered. Chapter 382 of 2014 made these provisions permanent.
- Chapter 220 of 2012 allowed dental hygienists to administer local anesthesia by inferior alveolar nerve block.
- Chapters 271 and 272 of 2013 authorized dental hygienists to perform specified procedures and activities without the supervision of a dentist, but without compensation, at a community-based health fair sponsored by the government or a nonprofit organization.

Additional Information

Prior Introductions: HB 727 and SB 644 of 2017 and HB 830 and SB 538 of 2016, bills with similar provisions, were withdrawn.

Cross File: None.

Information Source(s): Maryland Department of Health; Department of Legislative Services

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