

SENATE BILL 275

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1998 Regular Session
(8lr1408)

ENROLLED BILL

-- Economic and Environmental Affairs/Environmental Matters --

Introduced by **Senators Pinsky, Sfikas, Stoltzfus, Kelley, Colburn, and Conway**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Oral Health - Dental Hygienists - Access to Care**

3 FOR the purpose of authorizing a dental hygienist to practice under general
4 supervision of a dentist without a the dentist being required to be on the
5 premises; altering a certain definition; limiting a dental hygienist to treating
6 only certain patients under certain circumstances; eliminating the requirement
7 that a dental hygienist obtain a certain waiver from the State Board of Dental
8 Examiners before being able to treat patients without a dentist being on the
9 premises; requiring a dentist to maintain on record and provide to a dental
10 hygienist an agreement allowing a dental hygienist to perform appropriate
11 duties; repealing the authority of the State Board of Dental Examiners to waive
12 certain supervision requirements for certain facilities; requiring a facility in
13 which a dental hygienist is authorized to practice under general supervision to
14 ensure that certain conditions are met; requiring that a facility that operates
15 under general supervision report certain information to the Board; providing for
16 the construction of certain provisions of this Act; defining a certain term;

1 requiring the Board to make certain reports to the General Assembly; providing
 2 for the termination of this Act; and generally relating to the practice of dental
 3 hygiene.

4 BY repealing and reenacting, with amendments,
 5 Article - Health Occupations
 6 Section ~~4-101(h)~~ and 4-308(d)
 7 Annotated Code of Maryland
 8 (1994 Replacement Volume and 1997 Supplement)

9 BY adding to
 10 Article - Health Occupations
 11 Section 4-308(f)
 12 Annotated Code of Maryland
 13 (1994 Replacement Volume and 1997 Supplement)

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

16 **Article - Health Occupations**

17 ~~4-101.~~

18 (h) ~~[Except as provided in § 4-308(d)(2) of this title,] "GENERAL supervision"~~
 19 ~~means supervision of a dental hygienist by a dentist, where the dentist may or may~~
 20 ~~not be present when the dental hygienist performs the dental hygiene procedures~~
 21 ~~[but is available on the premises].~~

22 ~~4-308.~~

23 (d) (1) ~~While it is effective, a general license to practice dental hygiene~~
 24 ~~issued under this title authorizes the licensee to practice dental hygiene:~~

25 (i) ~~Only under the GENERAL supervision of a licensed dentist [who~~
 26 ~~is on the premises and available for personal consultation while the services are being~~
 27 ~~performed]; and~~

28 (ii) ~~Only in a:~~

29 1. ~~Dental office ON A PATIENT WHO HAS BEEN EXAMINED BY~~
 30 ~~THE DENTIST OF RECORD;~~

31 2. ~~Dental clinic;~~

32 3. ~~Hospital;~~

33 4. ~~School;~~

34 5. ~~[Charitable] BONA FIDE CHARITABLE institution; [or]~~

1 ~~(iii)} (2) (4) A DENTIST SHALL MAINTAIN IN DENTAL OFFICE~~
 2 ~~RECORDS A LETTER OF AGREEMENT IF THE DENTIST PERMITS A DENTAL HYGIENIST~~
 3 ~~TO PERFORM ORAL HEALTH SERVICES WITHIN THE SCOPE OF PRACTICE OF A~~
 4 ~~DENTAL HYGIENIST WHEN THE DENTIST IS NOT PRESENT.~~

5 ~~(II) THE DENTIST SHALL PROVIDE TO THE DENTAL HYGIENIST A~~
 6 ~~COPY OF THE LETTER.~~

7 ~~(III) THE LETTER SHALL BE SIGNED BY EACH DENTIST AND DENTAL~~
 8 ~~HYGIENIST WHO WORKS IN THE DENTAL OFFICE.~~

9 (3) The Board shall have the power to inspect [or review] FOR JUST
 10 CAUSE any facility, location, [person,] or entity [applying for, covered by, or acting
 11 under a waiver] WHERE DENTAL HYGIENE SERVICES ARE PROVIDED BY PERSONS
 12 ISSUED A GENERAL LICENSE TO PRACTICE DENTAL HYGIENE UNDER THIS TITLE.

13 ~~[(5) (i) Except as provided under subparagraph (ii) of this paragraph,~~
 14 ~~the Board shall accept or deny a waiver under paragraph (2) of this subsection within~~
 15 ~~60 calendar days of the receipt of the application for the waiver or it shall be deemed~~
 16 ~~to have been accepted.~~

17 ~~(ii) If extraordinary circumstances exist, the Board shall accept or~~
 18 ~~deny a waiver under paragraph (2) of this subsection within 90 calendar days of the~~
 19 ~~receipt of the application for the waiver or it shall be deemed to have been accepted.~~

20 (6) Any changes in the procedures or personnel of a facility with a waiver
 21 granted under this subsection shall be reported to the Board within 15 business days
 22 after the change.]

23 (4) THIS SUBSECTION MAY NOT BE CONSTRUED TO:

24 ~~(I) AUTHORIZE A DENTAL HYGIENIST TO PRACTICE DENTAL~~
 25 ~~HYGIENE INDEPENDENT OF A SUPERVISING DENTIST; OR~~

26 ~~(II) PROHIBIT A DENTIST FROM BEING AVAILABLE FOR PERSONAL~~
 27 ~~CONSULTATION OR ON THE PREMISES WHERE A DENTAL HYGIENIST IS PRACTICING.~~

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 29 October 1, 1998.
 30 4-308.

31 (d) (1) While it is effective, a general license to practice dental hygiene
 32 issued under this title authorizes the licensee to practice dental hygiene:

33 (i) Only under the supervision of a licensed dentist who is on the
 34 premises and available for personal consultation while the services are being
 35 performed; and

36 (ii) Only in a:

- 1 1. Dental office;
- 2 2. Dental clinic;
- 3 3. Hospital;
- 4 4. School;
- 5 5. Charitable institution; or
- 6 6. Health maintenance organization certified by the State
- 7 Insurance Commissioner.

8 (2) The Board may waive, on a case by case basis only, the supervision
9 requirements of this subsection for:

- 10 (i) [A dental facility owned and operated by the federal, the State,
11 or a local government;
- 12 (ii)] A health facility licensed by the Department of Health and
13 Mental Hygiene;
- 14 [(iii)] (II) A facility providing medical care to the poor, elderly, or
15 handicapped that is owned and operated by:
- 16 1. The State or a local government; or
- 17 2. A bona fide charitable organization; or
- 18 [(iv)] (III) Any other setting authorized under regulations adopted
19 by the Board.

20 (3) The Board may grant a waiver under paragraph (2) of this subsection
21 if:

- 22 (i) The facility requesting the waiver has submitted a written
23 application;
- 24 (ii) The facility requesting the waiver has submitted a medical
25 emergency plan of action at the time of application; and
- 26 (iii) The Board finds that:
- 27 1. Good cause exists to justify the granting of the waiver;
- 28 2. Adequate facilities and equipment, including portable
29 equipment where appropriate and appropriate armamentarium, are available for the
30 appropriate delivery of dental hygiene services; and
- 31 3. Adequate safeguards are present to protect the patient's
32 health and safety.

1 (4) (i) The Board, upon written request or its own motion, may
2 conduct a public informational meeting on any waiver application.

3 (ii) The Board shall maintain records of all waiver applications and
4 the criteria and basis for its action on each application.

5 (iii) The Board shall have the power to inspect or review any facility,
6 location, person, or entity applying for, covered by, or acting under a waiver.

7 (5) (i) Except as provided under subparagraph (ii) of this paragraph,
8 the Board shall accept or deny a waiver under paragraph (2) of this subsection within
9 60 calendar days of the receipt of the application for the waiver or it shall be deemed
10 to have been accepted.

11 (ii) If extraordinary circumstances exist, the Board shall accept or
12 deny a waiver under paragraph (2) of this subsection within 90 calendar days of the
13 receipt of the application for the waiver or it shall be deemed to have been accepted.

14 (6) Any changes in the procedures or personnel of a facility with a waiver
15 granted under this subsection shall be reported to the Board within 15 business days
16 after the change.

17 (F) (1) IN THIS SUBSECTION, "GENERAL SUPERVISION" MEANS
18 SUPERVISION OF A DENTAL HYGIENIST BY A DENTIST, WHERE THE DENTIST MAY OR
19 MAY NOT BE PRESENT WHEN THE DENTAL HYGIENIST PERFORMS THE DENTAL
20 HYGIENE PROCEDURES.

21 (2) WHILE IT IS EFFECTIVE A GENERAL LICENSE TO PRACTICE DENTAL
22 HYGIENE ISSUED UNDER THIS TITLE AUTHORIZES THE LICENSEE TO PRACTICE
23 DENTAL HYGIENE UNDER THE GENERAL SUPERVISION OF A LICENSED DENTIST IN:

24 (I) A DENTAL FACILITY OWNED AND OPERATED BY THE FEDERAL,
25 THE STATE, OR A LOCAL GOVERNMENT; OR

26 (II) A PUBLIC HEALTH DEPARTMENT OF THE STATE OR A COUNTY;
27 OR

28 (III) A NURSING HOME LICENSED BY THE STATE.

29 (3) A FACILITY IN WHICH A DENTAL HYGIENIST IS AUTHORIZED TO
30 PRACTICE UNDER THE GENERAL SUPERVISION OF A LICENSED DENTIST SHALL
31 ENSURE THAT:

32 (I) THE SUPERVISING DENTIST IN THE FACILITY:

33 1. HOLDS AN ACTIVE GENERAL LICENSE TO PRACTICE
34 DENTISTRY IN THE STATE;

1 2. HOLDS A CURRENT CERTIFICATE EVIDENCING HEALTH
2 PROVIDER LEVEL C PROFICIENCY, OR ITS EQUIVALENT, IN CARDIOPULMONARY
3 RESUSCITATION; AND

4 3. HAS AT LEAST 2 YEARS OF ACTIVE CLINICAL PRACTICE IN
5 DIRECT PATIENT CARE;

6 (II) EACH DENTAL HYGIENIST AUTHORIZED TO PRACTICE UNDER
7 THE GENERAL SUPERVISION OF A LICENSED DENTIST:

8 1. HOLDS AN ACTIVE GENERAL LICENSE TO PRACTICE
9 DENTAL HYGIENE IN THE STATE;

10 2. HOLDS A CURRENT CERTIFICATE EVIDENCING HEALTH
11 PROVIDER LEVEL C PROFICIENCY, OR ITS EQUIVALENT, IN CARDIOPULMONARY
12 RESUSCITATION; AND

13 3. HAS AT LEAST 2 YEARS OF ACTIVE CLINICAL PRACTICE IN
14 DIRECT PATIENT CARE;

15 (III) BEFORE THE INITIAL TREATMENT OF A PATIENT BY A DENTAL
16 HYGIENIST PRACTICING UNDER THE GENERAL SUPERVISION OF A LICENSED
17 DENTIST, THE SUPERVISING DENTIST, THE PATIENT'S DENTIST, OR THE TREATING
18 PHYSICIAN EVALUATES THE PATIENT'S MEDICAL HISTORY AND DETERMINES ITS
19 IMPACT ON THE PATIENT'S SUITABILITY TO RECEIVE ORAL HEALTH TREATMENT;

20 (IV) THE SUPERVISING DENTIST DIAGNOSES THE PATIENT AND
21 APPROVES THE TREATMENT PLAN FOR THE PATIENT;

22 (V) THE SUPERVISING DENTIST AUTHORIZES, ON A PATIENT BY
23 PATIENT BASIS, A DENTAL HYGIENIST TO PRACTICE UNDER THE GENERAL
24 SUPERVISION OF A LICENSED DENTIST;

25 (VI) A DENTAL HYGIENIST PRACTICING UNDER THE GENERAL
26 SUPERVISION OF A LICENSED DENTIST ASCERTAINS BEFORE TREATING A RECALL
27 PATIENT THAT THERE HAS BEEN NO CHANGE IN THE PATIENT'S MEDICAL HISTORY;

28 (VII) A DENTAL HYGIENIST CONSULTS WITH THE SUPERVISING
29 DENTIST, THE PATIENT'S DENTIST, OR A TREATING PHYSICIAN BEFORE PROCEEDING
30 WITH TREATMENT IF THERE IS A CHANGE IN THE PATIENT'S MEDICAL HISTORY;

31 (VIII) THE FACILITY HAS A MEDICAL EMERGENCY PLAN;

32 (IX) ADEQUATE FACILITIES AND EQUIPMENT ARE AVAILABLE FOR
33 THE DELIVERY OF DENTAL HYGIENE SERVICES OTHER THAN FLUORIDE RINSE
34 PROGRAMS; AND

35 (X) A RECALL PATIENT WHO HAS BEEN EXAMINED BY A DENTAL
36 HYGIENIST PRACTICING UNDER THE GENERAL SUPERVISION OF A LICENSED

1 DENTIST WILL BE SCHEDULED FOR AN ORAL EXAMINATION EVERY 6 MONTHS, OR AS
2 OTHERWISE RECOMMENDED BY THE SUPERVISING DENTIST.

3 (4) BEFORE A FACILITY OPERATES UNDER GENERAL SUPERVISION, THE
4 FACILITY SHALL REPORT TO THE BOARD:

5 (I) THAT THE FACILITY IS OPERATING UNDER GENERAL
6 SUPERVISION; AND

7 (II) THE IDENTITY OF EACH SUPERVISING DENTIST AND EACH
8 DENTAL HYGIENIST.

9 (5) A FACILITY OPERATING UNDER GENERAL SUPERVISION SHALL
10 REPORT TO THE BOARD ANY CHANGES IN THE STATUS OF THE FACILITY'S GENERAL
11 SUPERVISION, ANY SUPERVISING DENTIST, OR ANY DENTAL HYGIENIST WITHIN 30
12 DAYS AFTER THE CHANGE.

13 (6) THIS SUBSECTION MAY NOT BE CONSTRUED TO:

14 (I) AUTHORIZE A DENTAL HYGIENIST TO PRACTICE DENTAL
15 HYGIENE INDEPENDENT OF A SUPERVISING DENTIST; OR

16 (II) PROHIBIT A DENTIST FROM BEING AVAILABLE FOR PERSONAL
17 CONSULTATION OR ON THE PREMISES WHERE A DENTAL HYGIENIST IS PRACTICING.

18 SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of Dental
19 Examiners shall report to the General Assembly by December 31, 1999, and each year
20 thereafter, the identity of the facilities operating under general supervision, and the
21 identity of the supervising dentist of those facilities operating under general
22 supervision.

23 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 1998. It shall remain effective for a period of 3 years and, at the end of
25 September 30, 2001, with no further action required by the General Assembly, this
26 Act shall be abrogated and of no further force and effect.