

SENATE BILL 275

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1998 Regular Session
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By: **Senators Pinsky, Sfikas, Stoltzfus, Kelley, Colburn, and Conway**
Introduced and read first time: February 3, 1998
Assigned to: Economic and Environmental Affairs

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 24, 1998

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;~~
17 ~~requiring the Board to make certain reports to the General Assembly; providing~~
18 ~~for the termination of this Act;~~ and generally relating to the practice of dental
19 hygiene.

20 BY repealing and reenacting, with amendments,
21 Article - Health Occupations
22 Section ~~4-101(h)~~ and 4-308(d)
23 Annotated Code of Maryland
24 (1994 Replacement Volume and 1997 Supplement)

25 BY adding to

1 Article - Health Occupations
 2 Section 4-308(f)
 3 Annotated Code of Maryland
 4 (1994 Replacement Volume and 1997 Supplement)

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

7 **Article - Health Occupations**

8 ~~4-101.~~

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

13 ~~4-308.~~

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

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

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

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

22 2. ~~Dental clinic;~~

23 3. ~~Hospital;~~

24 4. ~~School;~~

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

26 6. ~~[Health] FACILITY OR OFFICE UNDER CONTRACT WITH A~~
 27 ~~HEALTH maintenance organization certified by the State Insurance Commissioner[.];~~

28 ~~{(2) The Board may waive, on a case by case basis only, the supervision~~
 29 ~~requirements of this subsection for:~~

30 (i) 7. ~~[A dental] DENTAL facility owned and operated by the~~
 31 ~~federal, the State, or a local government;~~

32 (ii) 8. ~~[A health] HEALTH facility licensed by the Department of~~
 33 ~~Health and Mental Hygiene;~~

1 9. SENIOR ASSISTED HOUSING PROGRAM LICENSED BY THE
2 STATE OFFICE ON AGING; OR

3 ~~{(iii)}~~ 10. ~~{A facility} FACILITY~~ providing medical care to the poor,
4 elderly, or handicapped that is owned and operated by:

5 ~~{1.} A. The State or a local government; or~~

6 ~~{2.} B. A bona fide charitable organization[: or].~~

7 ~~{(iv)} Any other setting authorized under regulations adopted by the~~
8 Board.

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

11 (i) The facility requesting the waiver has submitted a written
12 application;

13 (ii) The facility requesting the waiver has submitted a medical
14 emergency plan of action at the time of application; and

15 (iii) The Board finds that:

16 1. Good cause exists to justify the granting of the waiver;

17 2. Adequate facilities and equipment, including portable
18 equipment where appropriate and appropriate armamentarium, are available for the
19 appropriate delivery of dental hygiene services; and

20 3. Adequate safeguards are present to protect the patient's
21 health and safety.

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

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

26 ~~{(iii)}~~ (2) (I) A DENTIST SHALL MAINTAIN IN DENTAL OFFICE
27 RECORDS A LETTER OF AGREEMENT IF THE DENTIST PERMITS A DENTAL HYGIENIST
28 TO PERFORM ORAL HEALTH SERVICES WITHIN THE SCOPE OF PRACTICE OF A
29 DENTAL HYGIENIST WHEN THE DENTIST IS NOT PRESENT.

30 (II) THE DENTIST SHALL PROVIDE TO THE DENTAL HYGIENIST A
31 COPY OF THE LETTER.

32 (III) THE LETTER SHALL BE SIGNED BY EACH DENTIST AND DENTAL
33 HYGIENIST WHO WORKS IN THE DENTAL OFFICE.

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

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

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

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

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

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

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

20 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 21 October 1, 1998.
 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 supervision of a licensed dentist who is on the
 26 premises and available for personal consultation while the services are being
 27 performed; and

28 (ii) Only in a:

29 1. Dental office;

30 2. Dental clinic;

31 3. Hospital;

32 4. School;

33 5. Charitable institution; or

- 1 6. Health maintenance organization certified by the State
2 Insurance Commissioner.
- 3 (2) The Board may waive, on a case by case basis only, the supervision
4 requirements of this subsection for:
- 5 (i) [A dental facility owned and operated by the federal, the State,
6 or a local government;
- 7 (ii) A health facility licensed by the Department of Health and
8 Mental Hygiene;
- 9 [(iii)] (II) A facility providing medical care to the poor, elderly, or
10 handicapped that is owned and operated by:
- 11 1. The State or a local government; or
12 2. A bona fide charitable organization; or
- 13 [(iv)] (III) Any other setting authorized under regulations adopted
14 by the Board.
- 15 (3) The Board may grant a waiver under paragraph (2) of this subsection
16 if:
- 17 (i) The facility requesting the waiver has submitted a written
18 application;
- 19 (ii) The facility requesting the waiver has submitted a medical
20 emergency plan of action at the time of application; and
- 21 (iii) The Board finds that:
- 22 1. Good cause exists to justify the granting of the waiver;
23 2. Adequate facilities and equipment, including portable
24 equipment where appropriate and appropriate armamentarium, are available for the
25 appropriate delivery of dental hygiene services; and
- 26 3. Adequate safeguards are present to protect the patient's
27 health and safety.
- 28 (4) (i) The Board, upon written request or its own motion, may
29 conduct a public informational meeting on any waiver application.
- 30 (ii) The Board shall maintain records of all waiver applications and
31 the criteria and basis for its action on each application.
- 32 (iii) The Board shall have the power to inspect or review any facility,
33 location, person, or entity applying for, covered by, or acting under a waiver.

1 (5) (i) Except as provided under subparagraph (ii) of this paragraph,
2 the Board shall accept or deny a waiver under paragraph (2) of this subsection within
3 60 calendar days of the receipt of the application for the waiver or it shall be deemed
4 to have been accepted.

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

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

11 (F) (1) IN THIS SUBSECTION, "GENERAL SUPERVISION" MEANS
12 SUPERVISION OF A DENTAL HYGIENIST BY A DENTIST, WHERE THE DENTIST MAY OR
13 MAY NOT BE PRESENT WHEN THE DENTAL HYGIENIST PERFORMS THE DENTAL
14 HYGIENE PROCEDURES.

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

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

20 (II) A PUBLIC HEALTH DEPARTMENT OF THE STATE OR A COUNTY;
21 OR

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

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

26 (I) THE SUPERVISING DENTIST IN THE FACILITY:

27 1. HOLDS AN ACTIVE GENERAL LICENSE TO PRACTICE
28 DENTISTRY IN THE STATE;

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

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

34 (II) EACH DENTAL HYGIENIST AUTHORIZED TO PRACTICE UNDER
35 THE GENERAL SUPERVISION OF A LICENSED DENTIST;

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

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

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

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

13 (IV) THE SUPERVISING DENTIST DIAGNOSES THE PATIENT AND
14 APPROVES THE TREATMENT PLAN FOR THE PATIENT;

15 (V) THE SUPERVISING DENTIST AUTHORIZES, ON A PATIENT BY
16 PATIENT BASIS, A DENTAL HYGIENIST TO PRACTICE UNDER THE GENERAL
17 SUPERVISION OF A LICENSED DENTIST;

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

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

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

25 (IX) ADEQUATE FACILITIES AND EQUIPMENT ARE AVAILABLE FOR
26 THE DELIVERY OF DENTAL HYGIENE SERVICES OTHER THAN FLUORIDE RINSE
27 PROGRAMS; AND

28 (X) A RECALL PATIENT WHO HAS BEEN EXAMINED BY A DENTAL
29 HYGIENIST PRACTICING UNDER THE GENERAL SUPERVISION OF A LICENSED
30 DENTIST WILL BE SCHEDULED FOR AN ORAL EXAMINATION EVERY 6 MONTHS, OR AS
31 OTHERWISE RECOMMENDED BY THE SUPERVISING DENTIST.

32 (4) BEFORE A FACILITY OPERATES UNDER GENERAL SUPERVISION, THE
33 FACILITY SHALL REPORT TO THE BOARD;

34 (I) THAT THE FACILITY IS OPERATING UNDER GENERAL
35 SUPERVISION; AND

36 (II) THE IDENTITY OF EACH SUPERVISING DENTIST AND EACH
37 DENTAL HYGIENIST.

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

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

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

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

10 SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of Dental
11 Examiners shall report to the General Assembly by December 31, 1999, and each year
12 thereafter, the identity of the facilities operating under general supervision, and the
13 identity of the supervising dentist of those facilities operating under general
14 supervision.

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