
By: Delegates Morhaim, Owings, Frush, and ~~Hubbard~~ Hubbard, Oaks, Murray, Bates, Mandel, McDonough, Goldwater, Nathan-Pulliam, Pendergrass, Bromwell, Haynes, Smigiel, Donoghue, V. Turner, and Boutin

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Assigned to: Health and Government Operations

Committee Report: Favorable with amendments
House action: Adopted
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CHAPTER _____

1 AN ACT concerning

2 **Health Occupations - Dental Hygienists - Supervised Practice in a Private**
3 **Dental Office**

4 FOR the purpose of authorizing a dental hygienist practicing with a general license to
5 practice under the supervision of a licensed dentist who is not on the premises
6 while the authorized dental hygiene services are being performed; ~~authorizes~~
7 authorizing a dental hygienist practicing under a general license to practice
8 dental hygiene under the supervision of a licensed dentist in a private dental
9 office; requiring a private dental office supervising a dental hygienist to ensure
10 certain licensing requirements are met; authorizing a dental hygienist to
11 perform dental hygiene services without the supervising dentist on the premises
12 only if certain requirements are met; prohibiting a supervising dentist from
13 employing more than two dental hygienists to work under the dentist's general
14 supervision at any given time; defining a certain term; and generally relating to
15 the supervised practice of dental hygienists in a private dental office.

16 BY repealing and reenacting, with amendments,
17 Article - Health Occupations
18 Section 4-308
19 Annotated Code of Maryland
20 (2000 Replacement Volume and 2002 Supplement)

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

1

Article - Health Occupations

2 4-308.

3 (a) A general license to practice dentistry issued under this title authorizes
4 the licensee to practice dentistry while the license is effective.

5 (b) While it is effective, a limited license to practice dentistry issued under
6 this title authorizes the licensee to practice dentistry, including as an intern or a
7 resident:

8 (1) Only for the institution named on the license; and

9 (2) Only on patients of the institution named on the license.

10 (c) While it is effective, a retired volunteer dentist's license to practice
11 dentistry issued under this title authorizes the licensee to practice dentistry:

12 (1) Only in a dental office, dental clinic, ambulatory care facility, or
13 hospital;

14 (2) Only for an entity providing medical care to the poor, elderly, or
15 handicapped that is operated by:

16 (i) The State or a local government;

17 (ii) A bona fide charitable organization; or

18 (iii) Any other entity authorized under regulations adopted by the
19 Board;

20 (3) If the dentist signs a written statement agreeing to donate at least
21 100 hours of dental services without compensation in a facility that satisfies the
22 requirements of subsections (d)(1) and (2) of this section;

23 (4) If the dentist provides documentation as required by the Board which
24 evidences that the licensee is covered by malpractice insurance; and

25 (5) If the dentist does not otherwise practice dentistry for profit.

26 (d) While it is effective, a teacher's license to practice dentistry issued under
27 this title authorizes the licensee to practice dentistry at only the following
28 institutions:

29 (1) The institution named on the license; and

30 (2) Other affiliated institutions as appropriate because of the specialized
31 nature of the services to be performed.

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

1 (i) [Only under] UNDER the supervision of a licensed dentist who
2 is:

3 1. [on] ON the premises and available for personal
4 consultation while the services are being performed; [and] OR

5 2. NOT ON THE PREMISES WHILE AUTHORIZED DENTAL
6 HYGIENE SERVICES ARE PROVIDED WHEN THE REQUIREMENTS OF SUBSECTION (I)
7 OF THIS SECTION HAVE BEEN FULLY SATISFIED; AND

8 (ii) Only in a:

9 1. Dental office;

10 2. Dental clinic;

11 3. Hospital;

12 4. School;

13 5. Charitable institution; or

14 6. Health maintenance organization certified by the State
15 Insurance Commissioner.

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

18 (i) A dental facility owned and operated by the federal, the State,
19 or a local government;

20 (ii) A health facility licensed by the Department of Health and
21 Mental Hygiene;

22 (iii) A facility providing medical care to the poor, elderly, or
23 handicapped that is owned and operated by:

24 1. The State or a local government; or

25 2. A bona fide charitable organization; or

26 (iv) Any other setting authorized under regulations adopted by the
27 Board.

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

30 (i) The facility requesting the waiver has submitted a written
31 application;

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

3 (iii) The Board finds that:

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

5 2. Adequate facilities and equipment, including portable
6 equipment where appropriate and appropriate armamentarium, are available for the
7 appropriate delivery of dental hygiene services; and

8 3. Adequate safeguards are present to protect the patient's
9 health and safety.

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

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

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

16 (5) (i) Except as provided under subparagraph (ii) of this paragraph,
17 the Board shall accept or deny a waiver under paragraph (2) of this subsection within
18 60 calendar days of the receipt of the application for the waiver or it shall be deemed
19 to have been accepted.

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

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

26 (f) While it is effective, a retired volunteer dental hygienist's license to
27 practice dental hygiene issued under this title authorizes the licensee to practice
28 dental hygiene:

29 (1) Only in a dental office, dental clinic, ambulatory care facility, or
30 hospital;

31 (2) Only for an entity providing medical care to the poor, elderly, or
32 handicapped that is operated by:

33 (i) The State or a local government;

34 (ii) A bona fide charitable organization; or

1 (iii) Any other entity authorized under regulations adopted by the
2 Board;

3 (3) If the dental hygienist signs a written statement agreeing to donate
4 at least 100 hours of dental hygiene services without compensation in a facility that
5 satisfies the requirements of subsection (g)(1) and (2) of this section;

6 (4) If the dental hygienist provides documentation as required by the
7 Board which evidences that the licensee is covered by malpractice insurance; and

8 (5) If the dental hygienist does not otherwise practice dental hygiene for
9 profit.

10 (g) While it is effective, a teacher's license to practice dental hygiene issued
11 under this title authorizes the licensee to:

12 (1) Teach dental hygiene only at the institution named on the license;
13 and

14 (2) Practice dental hygiene under the general supervision of a licensed
15 dentist with the institution named on the license.

16 (h) (1) In this subsection, "general supervision" means supervision of a
17 dental hygienist by a dentist, where the dentist may or may not be present when the
18 dental hygienist performs the dental hygiene procedures.

19 (2) While it is effective, a general license to practice dental hygiene
20 issued under this title authorizes the licensee to practice dental hygiene under the
21 general supervision of a licensed dentist in:

22 (i) A dental facility owned and operated by the federal, the State,
23 or a local government; or

24 (ii) A public health department of the State or a county.

25 (3) A facility in which a dental hygienist is authorized to practice under
26 the general supervision of a licensed dentist shall ensure that:

27 (i) The supervising dentist in the facility:

28 1. Holds an active general license to practice dentistry in the
29 State;

30 2. Holds a current certificate evidencing health provider
31 level C proficiency, or its equivalent, in cardiopulmonary resuscitation; and

32 3. Has at least 2 years of active clinical practice in direct
33 patient care;

34 (ii) Each dental hygienist authorized to practice under the general
35 supervision of a licensed dentist:

1 (6) This subsection may not be construed to:

2 (i) Authorize a dental hygienist to practice dental hygiene
3 independent of a supervising dentist; or

4 (ii) Prohibit a dentist from being available for personal consultation
5 or on the premises where a dental hygienist is practicing.

6 (I) (1) IN THIS SUBSECTION, "PRIVATE DENTAL OFFICE" MEANS A DENTAL
7 OFFICE OWNED AND OPERATED BY:

8 (I) A LICENSED DENTIST; OR

9 (II) ~~LICENSED DENTISTS THROUGH A PROFESSIONAL~~
10 CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR LIMITED LIABILITY
11 PARTNERSHIP OWNED AND CONTROLLED BY A LICENSED DENTIST.

12 (2) WHILE IT IS EFFECTIVE, A GENERAL LICENSE TO PRACTICE DENTAL
13 HYGIENE ISSUED UNDER THIS TITLE AUTHORIZES THE LICENSEE TO PRACTICE
14 DENTAL HYGIENE UNDER THE GENERAL SUPERVISION OF A LICENSED DENTIST IN A
15 PRIVATE DENTAL OFFICE.

16 (3) A PRIVATE DENTAL OFFICE IN WHICH A DENTAL HYGIENIST IS
17 AUTHORIZED TO PRACTICE UNDER THE GENERAL SUPERVISION OF A LICENSED
18 DENTIST SHALL ENSURE THAT:

19 (I) THE SUPERVISING DENTIST HOLDS AN ACTIVE LICENSE TO
20 PRACTICE DENTISTRY IN THIS STATE;

21 (II) THE DENTAL HYGIENIST HOLDS AN ACTIVE LICENSE TO
22 PRACTICE DENTAL HYGIENE IN THIS STATE;

23 (III) THE DENTAL HYGIENIST HAS AT LEAST 1,500 HOURS OF
24 DENTAL HYGIENE CLINICAL PRACTICE IN DIRECT PATIENT CARE; AND

25 (IV) THERE IS A WRITTEN AGREEMENT BETWEEN THE
26 SUPERVISING DENTIST AND THE DENTAL HYGIENIST PRACTICING UNDER GENERAL
27 SUPERVISION THAT CLEARLY SETS FORTH THE TERMS AND CONDITIONS UNDER
28 WHICH THE DENTAL HYGIENIST MAY PRACTICE, INCLUDING A STATEMENT THAT
29 THE DENTAL HYGIENIST MAY PROVIDE DENTAL HYGIENE SERVICES WITHOUT THE
30 SUPERVISING DENTIST ON THE PREMISES.

31 (4) A DENTAL HYGIENIST MAY PERFORM AUTHORIZED DENTAL
32 HYGIENE SERVICES WITHOUT THE SUPERVISING DENTIST ON THE PREMISES ONLY
33 IF:

34 (I) AFTER THE SUPERVISING DENTIST EXAMINES AND EVALUATES
35 A PATIENT, THE PRESCRIBED AND AUTHORIZED TREATMENT TO BE PROVIDED BY
36 THE DENTAL HYGIENIST IS WRITTEN IN THE PATIENT'S RECORDS;

1 (II) 1. TREATMENTS AUTHORIZED BY A SUPERVISING DENTIST
2 TO BE PROVIDED BY THE DENTAL HYGIENIST ARE RENDERED NO LATER THAN 7
3 MONTHS FROM THE DATE THE PATIENT WAS EXAMINED AND EVALUATED BY THE
4 SUPERVISING DENTIST; AND

5 2. UPON EXPIRATION OF A PRESCRIPTION OR PRESCRIBED
6 TREATMENT, THE SUPERVISING DENTIST EXAMINES AND REEVALUATES THE
7 PATIENT BEFORE WRITING A NEW PRESCRIPTION AND AUTHORIZATION FOR
8 TREATMENT;

9 (III) PRIOR TO AN APPOINTMENT, THE PATIENT OR THE CUSTODIAL
10 PARENT OR LEGAL GUARDIAN OF A MINOR OR INCOMPETENT ADULT SHALL:

11 1. BE INFORMED THAT A DENTAL HYGIENIST WILL BE
12 PROVIDING SERVICES PREVIOUSLY PRESCRIBED BY A DENTIST WHO WILL NOT BE
13 ON THE PREMISES DURING THE APPOINTMENT; AND

14 2. CONSENT TO RECEIVING THE DENTAL HYGIENE
15 SERVICES;

16 (IV) WRITTEN EMERGENCY PROCEDURES ARE IN PLACE AND THE
17 DENTAL HYGIENIST IS TRAINED TO IMPLEMENT THE EMERGENCY PROCEDURES;
18 ~~AND~~

19 (V) A DESIGNATED LICENSED DENTIST IS AVAILABLE FOR
20 CONSULTATION WITH THE DENTAL HYGIENIST; AND

21 ~~(VI)~~ (VI) THE NUMBER OF UNSUPERVISED CLINICAL HOURS
22 WORKED BY A SUPERVISED DENTAL HYGIENIST IN ANY GIVEN CALENDAR WEEK IS
23 LESS THAN 60 PERCENT OF THE DENTAL HYGIENIST'S TOTAL HOURS.

24 (5) A SUPERVISING DENTIST MAY NOT EMPLOY MORE THAN TWO
25 DENTAL HYGIENISTS TO WORK UNDER THE DENTIST'S GENERAL SUPERVISION AT
26 ANY GIVEN TIME.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2003.