
By: **Senator Hollinger**

Introduced and read first time: January 29, 2003

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

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 a
7 dental hygienist practicing under a general license to practice dental hygiene
8 under the supervision of a licensed dentist in a private dental office; requiring a
9 private dental office supervising a dental hygienist to ensure certain licensing
10 requirements are met; authorizing a dental hygienist to perform dental hygiene
11 services without the supervising dentist on the premises only if certain
12 requirements are met; prohibiting a supervising dentist from employing more
13 than two dental hygienists to work under the dentist's general supervision at
14 any given time; and generally relating to the supervised practice of dental
15 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:

23 **Article - Health Occupations**

24 4-308.

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

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

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

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

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

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

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

9 (i) The State or a local government;

10 (ii) A bona fide charitable organization; or

11 (iii) Any other entity authorized under regulations adopted by the
12 Board;

13 (3) If the dentist signs a written statement agreeing to donate at least
14 100 hours of dental services without compensation in a facility that satisfies the
15 requirements of subsections (d)(1) and (2) of this section;

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

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

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

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

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

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

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

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

31 2. NOT ON THE PREMISES WHILE AUTHORIZED DENTAL
32 HYGIENE SERVICES ARE PROVIDED WHEN THE REQUIREMENTS OF SUBSECTION (1)
33 OF THIS SECTION HAVE BEEN FULLY SATISFIED; AND

- 1 (ii) Only in a:
- 2 1. Dental office;
- 3 2. Dental clinic;
- 4 3. Hospital;
- 5 4. School;
- 6 5. Charitable institution; or
- 7 6. Health maintenance organization certified by the State
- 8 Insurance Commissioner.

9 (2) The Board may waive, on a case by case basis only, the supervision

10 requirements of this subsection for:

11 (i) A dental facility owned and operated by the federal, the State,

12 or a local government;

13 (ii) A health facility licensed by the Department of Health and

14 Mental Hygiene;

15 (iii) A facility providing medical care to the poor, elderly, or

16 handicapped that is owned and operated by:

17 1. The State or a local government; or

18 2. A bona fide charitable organization; or

19 (iv) Any other setting authorized under regulations adopted by the

20 Board.

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

22 if:

23 (i) The facility requesting the waiver has submitted a written

24 application;

25 (ii) The facility requesting the waiver has submitted a medical

26 emergency plan of action at the time of application; and

27 (iii) The Board finds that:

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

29 2. Adequate facilities and equipment, including portable

30 equipment where appropriate and appropriate armamentarium, are available for the

31 appropriate delivery of dental hygiene services; and

1 3. Adequate safeguards are present to protect the patient's
2 health and safety.

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

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

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

9 (5) (i) Except as provided under subparagraph (ii) of this paragraph,
10 the Board shall accept or deny a waiver under paragraph (2) of this subsection within
11 60 calendar days of the receipt of the application for the waiver or it shall be deemed
12 to have been accepted.

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

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

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

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

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

26 (i) The State or a local government;

27 (ii) A bona fide charitable organization; or

28 (iii) Any other entity authorized under regulations adopted by the
29 Board;

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

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

35 (5) If the dental hygienist does not otherwise practice dental hygiene for
36 profit.

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

3 (1) Teach dental hygiene only at the institution named on the license;
4 and

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

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

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

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

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

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

18 (i) The supervising dentist in the facility:

19 1. Holds an active general license to practice dentistry in the
20 State;

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

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

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

27 1. Holds an active general license to practice dental hygiene
28 in the State;

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

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

33 (iii) Before the initial treatment of a patient by a dental hygienist
34 practicing under the general supervision of a licensed dentist, the supervising dentist,

1 the patient's dentist, or the treating physician evaluates the patient's medical history
2 and determines its impact on the patient's suitability to receive oral health treatment;

3 (iv) The supervising dentist diagnoses the patient and approves the
4 treatment plan for the patient;

5 (v) The supervising dentist authorizes, on a patient by patient
6 basis, a dental hygienist to practice under the general supervision of a licensed
7 dentist;

8 (vi) A dental hygienist practicing under the general supervision of a
9 licensed dentist ascertains before treating a recall patient that there has been no
10 change in the patient's medical history;

11 (vii) A dental hygienist consults with the supervising dentist, the
12 patient's dentist, or a treating physician before proceeding with treatment if there is
13 a change in the patient's medical history;

14 (viii) The facility has a medical emergency plan;

15 (ix) Adequate facilities and equipment are available for the delivery
16 of dental hygiene services other than fluoride rinse programs; and

17 (x) A recall patient who has been examined by a dental hygienist
18 practicing under the general supervision of a licensed dentist will be scheduled for an
19 oral examination every 6 months, or as otherwise recommended by the supervising
20 dentist.

21 (4) Before a facility operates under general supervision, the facility shall
22 report to the Board:

23 (i) That the facility is operating under general supervision; and

24 (ii) The identity of each supervising dentist and each dental
25 hygienist.

26 (5) A facility operating under general supervision shall report to the
27 Board any changes in the status of the facility's general supervision, any supervising
28 dentist, or any dental hygienist within 30 days after the change.

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

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

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

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

1 (I) A LICENSED DENTIST; OR

2 (II) LICENSED DENTISTS THROUGH A PROFESSIONAL
3 CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR LIMITED LIABILITY
4 PARTNERSHIP.

5 (2) WHILE IT IS EFFECTIVE, A GENERAL LICENSE TO PRACTICE DENTAL
6 HYGIENE ISSUED UNDER THIS TITLE AUTHORIZES THE LICENSEE TO PRACTICE
7 DENTAL HYGIENE UNDER THE GENERAL SUPERVISION OF A LICENSED DENTIST IN A
8 PRIVATE DENTAL OFFICE.

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

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

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

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

18 (IV) THERE IS A WRITTEN AGREEMENT BETWEEN THE
19 SUPERVISING DENTIST AND THE DENTAL HYGIENIST PRACTICING UNDER GENERAL
20 SUPERVISION THAT CLEARLY SETS FORTH THE TERMS AND CONDITIONS UNDER
21 WHICH THE DENTAL HYGIENIST MAY PRACTICE, INCLUDING A STATEMENT THAT
22 THE DENTAL HYGIENIST MAY PROVIDE DENTAL HYGIENE SERVICES WITHOUT THE
23 SUPERVISING DENTIST ON THE PREMISES.

24 (4) A DENTAL HYGIENIST MAY PERFORM AUTHORIZED DENTAL
25 HYGIENE SERVICES WITHOUT THE SUPERVISING DENTIST ON THE PREMISES ONLY
26 IF:

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

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

34 2. UPON EXPIRATION OF A PRESCRIPTION OR PRESCRIBED
35 TREATMENT, THE SUPERVISING DENTIST EXAMINES AND REEVALUATES THE
36 PATIENT BEFORE WRITING A NEW PRESCRIPTION AND AUTHORIZATION FOR
37 TREATMENT;

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

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

6 2. CONSENT TO RECEIVING THE DENTAL HYGIENE
7 SERVICES;

8 (IV) WRITTEN EMERGENCY PROCEDURES ARE IN PLACE AND THE
9 DENTAL HYGIENIST IS TRAINED TO IMPLEMENT THE EMERGENCY PROCEDURES;
10 AND

11 (V) THE NUMBER OF UNSUPERVISED CLINICAL HOURS WORKED BY
12 A SUPERVISED DENTAL HYGIENIST IN ANY GIVEN CALENDAR WEEK IS LESS THAN 60
13 PERCENT OF THE DENTAL HYGIENIST'S TOTAL HOURS.

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

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