
By: **Senators Dyson and Hollinger**
Introduced and read first time: February 3, 2006
Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Dental Examiners - Facilities with Needy Populations -**
3 **Waiver of General Supervision Requirements**

4 FOR the purpose of altering the types of facilities for which the State Board of Dental
5 Examiners may waive the general supervision of dental hygienist requirements;
6 requiring certain facilities that are granted a certain waiver of general
7 supervision requirements for dental hygienists to ensure that certain
8 requirements are satisfied; authorizing certain dental hygienists employed at
9 certain facilities to provide certain services; prohibiting certain dental
10 hygienists under general supervision in a private dental office from working any
11 more than a certain percentage of unsupervised clinical hours within a certain
12 time period; and generally relating to dental services provided to facilities with
13 needy populations with a waiver of general supervision requirements.

14 BY repealing and reenacting, with amendments,
15 Article - Health Occupations
16 Section 4-308
17 Annotated Code of Maryland
18 (2005 Replacement Volume)

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

21 **Article - Health Occupations**

22 4-308.

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

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

1 (1) Only for the institution or public health program named on the
2 license; and

3 (2) Only on patients of the institution or public health program named
4 on the license.

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

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

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

12 (i) The State or a local government;

13 (ii) A bona fide charitable organization; or

14 (iii) Any other entity authorized under regulations adopted by the
15 Board;

16 (3) If the dentist signs a written statement agreeing to donate at least
17 100 hours of dental services without compensation in a facility that satisfies the
18 requirements of subsection (d)(1) and (2) of this section;

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

21 (5) If the dentist does not otherwise practice dentistry for profit in
22 Maryland.

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

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

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

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

31 (i) Under the supervision of a licensed dentist who is:

32 1. On the premises and available for personal consultation
33 while the services are being performed; or

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1 2. Not on the premises while authorized dental hygiene
2 services are provided when the requirements of subsection (i) of this section have
3 been fully satisfied; and

4 (ii) Only in a:

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

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

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

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

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

- 20 1. The State or a local government; or
- 21 2. A bona fide charitable organization; or

22 (iv) Any other setting authorized under regulations adopted by the
23 Board INCLUDING:

- 24 1. SCHOOLS;
- 25 2. HOSPITALS;
- 26 3. PUBLIC CARE FACILITIES;
- 27 4. NURSING HOMES;
- 28 5. RESIDENTIAL CARE FACILITIES;
- 29 6. MOBILE HEALTH UNITS; OR

1 7. HOMES FOR JUVENILES, THE ELDERLY, OR THE
2 HANDICAPPED.

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

5 (i) The facility requesting the waiver has submitted a written
6 application;

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

9 (iii) The Board finds that:

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

11 2. Adequate facilities and equipment, including portable
12 equipment where appropriate and appropriate armamentarium, are available for the
13 appropriate delivery of dental hygiene services; and

14 3. Adequate safeguards are present to protect the patient's
15 health and safety.

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

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

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

22 (5) (i) Except as provided under subparagraph (ii) of this paragraph,
23 the Board shall accept or deny a waiver under paragraph (2) of this subsection within
24 60 calendar days of the receipt of the application for the waiver or it shall be deemed
25 to have been accepted.

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

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

32 (f) While it is effective, a retired volunteer dental hygienist's license or a
33 volunteer hygienist's license to practice dental hygiene issued under this title
34 authorizes the licensee to practice dental hygiene:

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

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

3 (i) The State or a local government;

4 (ii) A bona fide charitable organization; or

5 (iii) Any other entity authorized under regulations adopted by the
6 Board;

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

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

12 (5) If the dental hygienist does not otherwise practice dental hygiene for
13 profit in Maryland.

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

16 (1) Teach dental hygiene only at the institution named on the license;
17 and

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

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

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

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

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

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

31 (i) The supervising dentist in the facility:

32 1. Holds an active general license to practice dentistry in the
33 State;

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

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

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

7 1. Holds an active general license to practice dental hygiene
8 in the State;

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

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

13 (iii) Before the initial treatment of a patient by a dental hygienist
14 practicing under the general supervision of a licensed dentist, the supervising dentist,
15 the patient's dentist, or the treating physician evaluates the patient's medical history
16 and determines its impact on the patient's suitability to receive oral health treatment;

17 (iv) The supervising dentist diagnoses the patient and approves the
18 treatment plan for the patient;

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

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

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

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

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

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

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

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

2 (ii) The identity of each supervising dentist and each dental
3 hygienist.

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

7 (6) IF THE BOARD GRANTS A WAIVER OF THE GENERAL SUPERVISION
8 REQUIREMENTS FOR A FACILITY UNDER SUBSECTION (E)(2) OF THIS SECTION:

9 (I) THE FACILITY TO WHICH A WAIVER WAS GRANTED SHALL
10 ENSURE THAT THE REQUIREMENTS OF PARAGRAPH (3)(I), (II), (VIII), AND (IX) OF THIS
11 SUBSECTION ARE SATISFIED; AND

12 (II) A DENTAL HYGIENIST EMPLOYED BY A FACILITY TO WHICH A
13 WAIVER WAS GRANTED MAY PROVIDE, WITHOUT SATISFYING THE REQUIREMENTS
14 OF PARAGRAPH (3)(III), (IV), (V), (VI), (VII), AND (X) OF THIS SUBSECTION, THE
15 FOLLOWING SERVICES:

- 16 1. PRELIMINARY DENTAL SCREENINGS;
- 17 2. A COMPLETE DENTAL CHARTING;
- 18 3. APPLICATION OF FLUORIDE VARNISHES;
- 19 4. FLUORIDE RINSES; AND
- 20 5. ORAL HEALTH EDUCATION.

21 [(6)] (7) This subsection may not be construed to:

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

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

26 (i) (1) In this subsection, "private dental office" means a dental office owned
27 and operated by:

28 (i) A licensed dentist; or

29 (ii) A professional corporation, partnership, limited liability
30 company, or limited liability partnership owned and controlled by a licensed dentist.

31 (2) While it is effective, a general license to practice dental hygiene
32 issued under this title authorizes the licensee to practice dental hygiene under the
33 general supervision of a licensed dentist in a private dental office.

1 (3) A private dental office in which a dental hygienist is authorized to
2 practice under the general supervision of a licensed dentist shall ensure that:

3 (i) The supervising dentist holds an active license to practice
4 dentistry in this State;

5 (ii) The dental hygienist holds an active license to practice dental
6 hygiene in this State;

7 (iii) The dental hygienist has at least 1,500 hours of dental hygiene
8 clinical practice in direct patient care; and

9 (iv) There is a written agreement between the supervising dentist
10 and the dental hygienist practicing under general supervision that clearly sets forth
11 the terms and conditions under which the dental hygienist may practice, including a
12 statement that the dental hygienist may provide dental hygiene services without the
13 supervising dentist on the premises.

14 (4) A dental hygienist may perform authorized dental hygiene services
15 without the supervising dentist on the premises only if:

16 (i) After the supervising dentist examines and evaluates a patient,
17 the prescribed and authorized treatment to be provided by the dental hygienist is
18 written in the patient's records;

19 (ii) 1. Treatments authorized by a supervising dentist to be
20 provided by the dental hygienist are rendered no later than 7 months from the date
21 the patient was examined and evaluated by the supervising dentist; and

22 2. Upon expiration of a prescription or prescribed treatment,
23 the supervising dentist examines and reevaluates the patient before writing a new
24 prescription and authorization for treatment;

25 (iii) Prior to an appointment, the patient or the custodial parent or
26 legal guardian of a minor or incompetent adult shall:

27 1. Be informed that a dental hygienist will be providing
28 services previously prescribed by a dentist who will not be on the premises during the
29 appointment; and

30 2. Consent to receiving the dental hygiene services;

31 (iv) Written emergency procedures are in place and the dental
32 hygienist is trained to implement the emergency procedures;

33 (v) A designated licensed dentist is available for consultation with
34 the dental hygienist; and

1 (vi) The number of unsupervised clinical hours worked by a
2 supervised dental hygienist in any given [calendar week] CONSECUTIVE 90-DAY
3 PERIOD is less than 60 percent of the dental hygienist's total hours.

4 (5) A supervising dentist may not employ more than two dental
5 hygienists to work under the dentist's general supervision at any given time.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2006.