

SENATE BILL 818

J2, J1

(8lr2216)

ENROLLED BILL

—*Education, Health, and Environmental Affairs/Health and Government
Operations*—

Introduced by **Senators Middleton, Astle, Colburn, Conway, Currie, DeGrange, Della, Dyson, Edwards, Forehand, Garagiola, Glassman, Jones, Kasemeyer, Kelley, King, Klausmeier, Kramer, Madaleno, McFadden, Muse, Peters, Pinsky, Pugh, Raskin, Robey, Rosapepe, and ~~Simonaire~~ Simonaire, Harrington, and Lenett**

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 **Public Health Dental Hygiene Act**

3 FOR the purpose of altering the authorization of a general license to practice dental
4 hygiene to include the application of certain sealants or fluoride agents under
5 certain supervision in certain facilities; providing that a certain waiver is not
6 required to practice dental hygiene under certain supervision in accordance
7 with certain provisions of law; increasing the types of facilities a general license
8 to practice dental hygiene authorizes a dental hygienist to practice in under
9 certain supervision; altering the requirements for certain facilities in which
10 certain dental hygienists are authorized to practice under certain supervision;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



1 defining ~~a certain term~~ terms; and generally relating to the practice of dental
2 hygiene.

3 BY repealing and reenacting, without amendments,
4 Article – Health Occupations
5 Section 4–101(k) and (l)
6 Annotated Code of Maryland
7 (2005 Replacement Volume and 2007 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article – Health Occupations
10 Section 4–308(e) and (h)
11 Annotated Code of Maryland
12 (2005 Replacement Volume and 2007 Supplement)

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

15 **Article – Health Occupations**

16 4–101.

17 (k) “Practice dental hygiene” means to:

18 (1) Perform a preliminary dental examination;

19 (2) Perform a complete prophylaxis, including the removal of any
20 deposit, accretion, or stain from the surface of a tooth or a restoration;

21 (3) Polish a tooth or a restoration;

22 (4) Chart cavities, restorations, missing teeth, periodontal conditions,
23 and other features observed during preliminary examination, prophylaxis, or
24 polishing;

25 (5) Apply a medicinal agent to a tooth for a prophylactic purpose;

26 (6) Take a dental X ray; or

27 (7) Perform any other intraoral function that the Board authorizes by
28 a rule or regulation adopted under § 4–206 of this title.

29 (l) “Practice dentistry” means to:

30 (1) Be a manager, a proprietor, or a conductor of or an operator in any
31 place in which a dental service or dental operation is performed intraorally;

1 (2) Perform or attempt to perform any intraoral dental service or
2 intraoral dental operation;

3 (3) Diagnose, treat, or attempt to diagnose or treat any disease, injury,
4 malocclusion, or malposition of a tooth, gum, or jaw, or structures associated with a
5 tooth, gum, or jaw if the service, operation, or procedure is included in the curricula of
6 an accredited dental school or in an approved dental residency program of an
7 accredited hospital or teaching institution;

8 (4) Perform or offer to perform dental laboratory work;

9 (5) Place or adjust a dental appliance in a human mouth; or

10 (6) Administer anesthesia for the purposes of dentistry and not as a
11 medical specialty.

12 4-308.

13 (e) (1) [While] **EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS**
14 **SECTION, WHILE** it is effective, a general license to practice dental hygiene issued
15 under this title authorizes the licensee to practice dental hygiene:

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

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

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

22 (ii) Only in a:

23 1. Dental office;

24 2. Dental clinic;

25 3. Hospital;

26 4. School;

27 5. Charitable institution; or

28 6. Health maintenance organization certified by the
29 State Insurance Commissioner.

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

3 [(i)] **1.** A dental facility owned and operated by the federal,
4 the State, or a local government;

5 [(ii)] **2.** A health facility licensed by the Department of Health
6 and Mental Hygiene;

7 [(iii)] **3.** A facility providing medical care to the poor, elderly,
8 or handicapped that is owned and operated by:

9 [1.] **A.** The State or a local government; or

10 [2.] **B.** A bona fide charitable organization; or

11 [(iv)] **4.** Any other setting authorized under regulations
12 adopted by the Board.

13 **(II) A WAIVER IS NOT REQUIRED TO PRACTICE DENTAL**
14 **HYGIENE UNDER GENERAL SUPERVISION IN ACCORDANCE WITH SUBSECTION**
15 **(H) OF THIS SECTION.**

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

18 (i) The facility requesting the waiver has submitted a written
19 application;

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

22 (iii) The Board finds that:

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

24 2. Adequate facilities and equipment, including portable
25 equipment where appropriate and appropriate armamentarium, are available for the
26 appropriate delivery of dental hygiene services; and

27 3. Adequate safeguards are present to protect the
28 patient's health and safety.

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

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

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

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

9 (ii) If extraordinary circumstances exist, the Board shall accept
10 or 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
13 waiver granted under this subsection shall be reported to the Board within 15
14 business days after the change.

15 (h) (1) (I) In this subsection, [“general supervision”] **THE FOLLOWING**
16 **WORDS HAVE THE MEANINGS INDICATED.**

17 (II) **“CONTRACTUAL EMPLOYEE” MEANS A DENTAL**
18 **HYGIENIST WHO HAS AN ANNUAL CONTRACT TO PRACTICE DENTAL HYGIENE AN**
19 **AVERAGE OF AT LEAST 8 HOURS PER WEEK IN A FACILITY SPECIFIED UNDER**
20 **PARAGRAPH (3)(I) OF THIS SUBSECTION.**

21 (III) **“FACILITY” INCLUDES A PROGRAM OPERATED WITHIN A**
22 **FACILITY THAT IS SPECIFIED UNDER PARAGRAPH (3)(I) OF THIS SUBSECTION.**

23 (IV) **“FEDERALLY QUALIFIED HEALTH CENTER” HAS THE**
24 **MEANING STATED IN 42 U.S.C. § ~~254B(A)~~ § 254B(A).**

25 (V) **“FEDERALLY QUALIFIED HEALTH CENTER**
26 **LOOK-ALIKE” HAS THE MEANING STATED IN 42 U.S.C. § 1396D(L)(2)(B).**

27 ~~(H)~~ (VI) **“GENERAL SUPERVISION”** means supervision of a
28 dental hygienist by a dentist, where the dentist may or may not be present when the
29 dental hygienist performs the dental hygiene procedures.

30 (2) (I) **WHILE EFFECTIVE, A GENERAL LICENSE TO PRACTICE**
31 **DENTAL HYGIENE ISSUED UNDER THIS TITLE AUTHORIZES THE LICENSEE TO**
32 **PRACTICE DENTAL HYGIENE AND APPLY SEALANTS OR FLUORIDE AGENTS SUCH**
33 **AS PROFESSIONAL TOPICAL FLUORIDE TREATMENTS, MOUTH RINSE, OR**
34 **VARNISH:**

1 **1. UNDER GENERAL SUPERVISION IN ACCORDANCE**
 2 **WITH THIS SUBSECTION; AND**

3 **2. IN A FACILITY SPECIFIED UNDER PARAGRAPH**
 4 **(3)(I) OF THIS SUBSECTION THAT COMPLIES WITH THE REQUIREMENTS OF THIS**
 5 **SUBSECTION.**

6 **(II) THIS SUBSECTION MAY NOT BE CONSTRUED TO:**

7 **1. AUTHORIZE A DENTAL HYGIENIST TO PRACTICE**
 8 **DENTAL HYGIENE INDEPENDENT OF A SUPERVISING DENTIST;**

9 **2. PROHIBIT A DENTIST FROM BEING AVAILABLE**
 10 **FOR PERSONAL CONSULTATION OR ON THE PREMISES WHERE A DENTAL**
 11 **HYGIENIST IS PRACTICING; OR**

12 **3. REQUIRE A WAIVER UNDER SUBSECTION (E) OF**
 13 **THIS SECTION.**

14 [(2)] **(3) (I)** While it is effective, a general license to practice
 15 dental hygiene issued under this title authorizes the licensee to practice dental
 16 hygiene under [the] general supervision [of a licensed dentist] in:

17 [(i)] **1. A dental facility owned and operated by the federal,**
 18 **the State, or a local government; [or]**

19 [(ii)] **2. A public health department OR PUBLIC SCHOOL of**
 20 **the State or a [county.] COUNTY;**

21 **3. A ~~HEALTH~~ FACILITY IN WHICH A PROGRAM**
 22 **LICENSED BY THE DEPARTMENT IS OPERATING;**

23 **4. A FACILITY OWNED AND OPERATED BY THE**
 24 **DEPARTMENT OF JUVENILE SERVICES;**

25 ~~4~~ **5. A FACILITY OWNED AND OPERATED BY THE**
 26 **STATE OR A LOCAL GOVERNMENT THAT PROVIDES MEDICAL CARE TO THE**
 27 **POOR, ELDERLY, OR HANDICAPPED;**

28 ~~5~~ **6. A FACILITY IN WHICH A FEDERALLY QUALIFIED**
 29 **HEALTH CENTER OR A FEDERALLY QUALIFIED HEALTH CENTER LOOK-ALIKE IS**
 30 **LOCATED; OR**

1 ~~6~~**7. A FACILITY IN WHICH A STATE LICENSED HEAD**
2 **START PROGRAM OR EARLY HEAD START PROGRAM OPERATES.**

3 (II) **BEFORE A FACILITY MAY ALLOW A DENTAL HYGIENIST**
4 **AUTHORIZED TO PRACTICE DENTAL HYGIENE UNDER GENERAL SUPERVISION IN**
5 **ACCORDANCE WITH THIS SUBSECTION TO PRACTICE IN THE FACILITY, THE**
6 **FACILITY SHALL REPORT TO THE BOARD:**

7 1. **THAT THE FACILITY IS OPERATING UNDER**
8 **GENERAL SUPERVISION; AND**

9 2. **THE IDENTITY OF EACH SUPERVISING DENTIST**
10 **AND EACH DENTAL HYGIENIST.**

11 [(3)] (4) A facility in which a dental hygienist is authorized to
12 practice under the general supervision of a licensed dentist **IN ACCORDANCE WITH**
13 **THIS SUBSECTION** shall ensure that:

14 (i) The supervising dentist [in] **FOR** the facility:

15 1. Holds an active general license to practice dentistry in
16 the State;

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

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

21 (ii) Each dental hygienist authorized to practice under the
22 general supervision of a licensed dentist **IN ACCORDANCE WITH THIS SUBSECTION:**

23 1. Holds an active general license to practice dental
24 hygiene in the State;

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

27 3. Has at least 2 years of active clinical practice in direct
28 patient care; **AND**

29 4. **IS A PERMANENT OR CONTRACTUAL EMPLOYEE**
30 **OF THE FEDERAL GOVERNMENT, A STATE OR LOCAL GOVERNMENT, OR A**
31 **FEDERALLY QUALIFIED HEALTH CENTER;**

1 (iii) The facility has [a]:

2 1. A medical emergency plan; [and]

3 2. **ADEQUATE EQUIPMENT, INCLUDING PORTABLE**
4 **EQUIPMENT WHERE APPROPRIATE AND APPROPRIATE ARMAMENTARIUM, IS**
5 **AVAILABLE FOR THE APPROPRIATE DELIVERY OF DENTAL HYGIENE SERVICES;**
6 **AND**

7 3. **ADEQUATE SAFEGUARDS TO PROTECT THE**
8 **PATIENT'S HEALTH AND SAFETY;**

9 (iv) A recall patient who has been examined by a dental
10 hygienist practicing under the general supervision of a licensed dentist will be
11 scheduled for an oral examination every 6 months, or as otherwise recommended by
12 the supervising [dentist.] **DENTIST;**

13 [(4) (i) Except as provided in subparagraph (ii) of this paragraph, a
14 facility in which a dental hygienist is authorized to practice under the general
15 supervision of a licensed dentist shall satisfy the following requirements:

16 1. Before the initial treatment of a patient by a dental
17 hygienist practicing under the general supervision of a licensed dentist, the
18 supervising dentist, the patient's dentist, or the treating physician evaluates the
19 patient's medical history and determines its impact on the patient's suitability to
20 receive oral health treatment;

21 2. The supervising dentist diagnoses the patient and
22 approves the treatment plan for the patient;

23 3. The supervising dentist authorizes, on a patient by
24 patient basis, a dental hygienist to practice under the general supervision of a licensed
25 dentist;]

26 [4.] (V) A dental hygienist practicing under the general
27 supervision of a licensed dentist ascertains before treating a recall patient that there
28 has been no change in the patient's medical history;

29 [5.] (VI) A dental hygienist consults with the
30 supervising dentist, the patient's dentist, or a treating physician before proceeding
31 with treatment if there is a change in the patient's medical history; [and]

32 [6.] (VII) Adequate facilities and equipment are available
33 for the delivery of dental hygiene services other than fluoride rinse [programs.]
34 **PROGRAMS; AND**

1 [(ii) A dental hygienist who is authorized to practice under the
2 general supervision of a licensed dentist may apply fluoride, mouth rinse, or varnish
3 without satisfying the requirements of subparagraph (i) of this paragraph.

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

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

7 (ii) The identity of each supervising dentist and each dental
8 hygienist.

9 (6) A facility operating under general supervision shall report]

10 (VIII) **REPORTS** to the Board any changes in the status of the
11 facility's general supervision, any supervising dentist, or any dental hygienist within
12 30 days after the change.

13 [(7) This subsection may not be construed to:

14 (i) Authorize a dental hygienist to practice dental hygiene
15 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 this Act shall take effect
19 October 1, 2008.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.