

# SENATE BILL 818

J2, J1

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CF 8lr2005

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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**

Introduced and read first time: February 7, 2008

Assigned to: Rules

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## A BILL ENTITLED

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;  
11 defining a certain term; and generally relating to the practice of dental hygiene.

12 BY repealing and reenacting, without amendments,  
13 Article – Health Occupations  
14 Section 4–101(k) and (l)  
15 Annotated Code of Maryland  
16 (2005 Replacement Volume and 2007 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article – Health Occupations  
19 Section 4–308(e) and (h)  
20 Annotated Code of Maryland  
21 (2005 Replacement Volume and 2007 Supplement)

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

24 **Article – Health Occupations**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 4–101.

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

3 (1) Perform a preliminary dental examination;

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

6 (3) Polish a tooth or a restoration;

7 (4) Chart cavities, restorations, missing teeth, periodontal conditions,  
8 and other features observed during preliminary examination, prophylaxis, or  
9 polishing;

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

11 (6) Take a dental X ray; or

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

14 (l) “Practice dentistry” means to:

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

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

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

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

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

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

28 4–308.

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

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

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

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

10 (ii) Only in a:

11 1. Dental office;

12 2. Dental clinic;

13 3. Hospital;

14 4. School;

15 5. Charitable institution; or

16 6. Health maintenance organization certified by the  
17 State Insurance Commissioner.

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

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

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

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

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

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

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

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

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

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

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

10                  (iii) The Board finds that:

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

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

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

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

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

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

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

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

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

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

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

7 (III) **“GENERAL SUPERVISION”** means supervision of a dental  
8 hygienist by a dentist, where the dentist may or may not be present when the dental  
9 hygienist performs the dental hygiene procedures.

10 (2) (I) **WHILE EFFECTIVE, A GENERAL LICENSE TO PRACTICE**  
11 **DENTAL HYGIENE ISSUED UNDER THIS TITLE AUTHORIZES THE LICENSEE TO**  
12 **PRACTICE DENTAL HYGIENE AND APPLY SEALANTS OR FLUORIDE AGENTS SUCH**  
13 **AS PROFESSIONAL TOPICAL FLUORIDE TREATMENTS, MOUTH RINSE, OR**  
14 **VARNISH:**

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

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

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

21 1. **AUTHORIZE A DENTAL HYGIENIST TO PRACTICE**  
22 **DENTAL HYGIENE INDEPENDENT OF A SUPERVISING DENTIST;**

23 2. **PROHIBIT A DENTIST FROM BEING AVAILABLE**  
24 **FOR PERSONAL CONSULTATION OR ON THE PREMISES WHERE A DENTAL**  
25 **HYGIENIST IS PRACTICING; OR**

26 3. **REQUIRE A WAIVER UNDER SUBSECTION (E) OF**  
27 **THIS SECTION.**

28 [(2)] (3) (I) While it is effective, a general license to practice  
29 dental hygiene issued under this title authorizes the licensee to practice dental  
30 hygiene under [the] general supervision [of a licensed dentist] in:

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

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

3                    **3. A HEALTH FACILITY LICENSED BY THE**  
4 **DEPARTMENT;**

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

8                    **5. A FACILITY IN WHICH A FEDERALLY QUALIFIED**  
9 **HEALTH CENTER IS LOCATED; OR**

10                    **6. A FACILITY IN WHICH A STATE LICENSED HEAD**  
11 **START PROGRAM OR EARLY HEAD START PROGRAM OPERATES.**

12                    **(II) BEFORE A FACILITY MAY ALLOW A DENTAL HYGIENIST**  
13 **AUTHORIZED TO PRACTICE DENTAL HYGIENE UNDER GENERAL SUPERVISION IN**  
14 **ACCORDANCE WITH THIS SUBSECTION TO PRACTICE IN THE FACILITY, THE**  
15 **FACILITY SHALL REPORT TO THE BOARD:**

16                    **1. THAT THE FACILITY IS OPERATING UNDER**  
17 **GENERAL SUPERVISION; AND**

18                    **2. THE IDENTITY OF EACH SUPERVISING DENTIST**  
19 **AND EACH DENTAL HYGIENIST.**

20                    [(3)] **(4)** A facility in which a dental hygienist is authorized to  
21 practice under the general supervision of a licensed dentist **IN ACCORDANCE WITH**  
22 **THIS SUBSECTION** shall ensure that:

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

24                    1. Holds an active general license to practice dentistry in  
25 the State;

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

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

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

- 1                                    1.    Holds an active general license to practice dental  
2 hygiene in the State;
- 3                                    2.    Holds a current certificate evidencing health provider  
4 level C proficiency, or its equivalent, in cardiopulmonary resuscitation; [and]
- 5                                    3.    Has at least 2 years of active clinical practice in direct  
6 patient care; **AND**
- 7                                    4.    **IS A PERMANENT OR CONTRACTUAL EMPLOYEE**  
8 **OF THE FEDERAL GOVERNMENT, A STATE OR LOCAL GOVERNMENT, OR A**  
9 **FEDERALLY QUALIFIED HEALTH CENTER;**

10                                    (iii)    The facility has [a]:

- 11                                    1.    **A medical emergency plan; [and]**
- 12                                    2.    **ADEQUATE EQUIPMENT, INCLUDING PORTABLE**  
13 **EQUIPMENT WHERE APPROPRIATE AND APPROPRIATE ARMAMENTARIUM, IS**  
14 **AVAILABLE FOR THE APPROPRIATE DELIVERY OF DENTAL HYGIENE SERVICES;**  
15 **AND**
- 16                                    3.    **ADEQUATE SAFEGUARDS TO PROTECT THE**  
17 **PATIENT’S HEALTH AND SAFETY;**

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

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

- 25                                    1.    Before the initial treatment of a patient by a dental  
26 hygienist practicing under the general supervision of a licensed dentist, the  
27 supervising dentist, the patient’s dentist, or the treating physician evaluates the  
28 patient’s medical history and determines its impact on the patient’s suitability to  
29 receive oral health treatment;
- 30                                    2.    The supervising dentist diagnoses the patient and  
31 approves the treatment plan for the patient;
- 32                                    3.    The supervising dentist authorizes, on a patient by  
33 patient basis, a dental hygienist to practice under the general supervision of a licensed  
34 dentist;]

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

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

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

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

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

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

16 (ii) The identity of each supervising dentist and each dental  
17 hygienist.

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

19 **(VIII) REPORTS** to the Board any changes in the status of the  
20 facility's general supervision, any supervising dentist, or any dental hygienist within  
21 30 days after the change.

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

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

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

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
28 October 1, 2008.