

SENATE BILL 818

J2, J1

8lr2216
CF HB 1280

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**

Introduced and read first time: February 7, 2008

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs, February 14, 2008

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 19, 2008

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

13 BY repealing and reenacting, without amendments,
14 Article – Health Occupations
15 Section 4–101(k) and (l)
16 Annotated Code of Maryland
17 (2005 Replacement Volume and 2007 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Health Occupations

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.



1 Section 4-308(e) and (h)
2 Annotated Code of Maryland
3 (2005 Replacement Volume and 2007 Supplement)

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

6 **Article – Health Occupations**

7 4-101.

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

9 (1) Perform a preliminary dental examination;

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

12 (3) Polish a tooth or a restoration;

13 (4) Chart cavities, restorations, missing teeth, periodontal conditions,
14 and other features observed during preliminary examination, prophylaxis, or
15 polishing;

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

17 (6) Take a dental X ray; or

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

20 (l) “Practice dentistry” means to:

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

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

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

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

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

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

3 4–308.

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

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

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

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

13 (ii) Only in a:

14 1. Dental office;

15 2. Dental clinic;

16 3. Hospital;

17 4. School;

18 5. Charitable institution; or

19 6. Health maintenance organization certified by the
20 State Insurance Commissioner.

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

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

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

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

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

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

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

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

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

9 (i) The facility requesting the waiver has submitted a written
10 application;

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

13 (iii) The Board finds that:

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

15 2. Adequate facilities and equipment, including portable
16 equipment where appropriate and appropriate armamentarium, are available for the
17 appropriate delivery of dental hygiene services; and

18 3. Adequate safeguards are present to protect the
19 patient's health and safety.

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

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

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

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

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

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

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

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

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

12 (IV) **“FEDERALLY QUALIFIED HEALTH CENTER” HAS THE**
13 **MEANING STATED IN 42 U.S.C. § 25B(A).**

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

16 ~~(H)~~ (VI) **“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) (I) **WHILE EFFECTIVE, A GENERAL LICENSE TO PRACTICE**
20 **DENTAL HYGIENE ISSUED UNDER THIS TITLE AUTHORIZES THE LICENSEE TO**
21 **PRACTICE DENTAL HYGIENE AND APPLY SEALANTS OR FLUORIDE AGENTS SUCH**
22 **AS PROFESSIONAL TOPICAL FLUORIDE TREATMENTS, MOUTH RINSE, OR**
23 **VARNISH:**

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

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

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

30 1. **AUTHORIZE A DENTAL HYGIENIST TO PRACTICE**
31 **DENTAL HYGIENE INDEPENDENT OF A SUPERVISING DENTIST;**

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

4 **3. REQUIRE A WAIVER UNDER SUBSECTION (E) OF**
 5 **THIS SECTION.**

6 [(2)] **(3) (I)** While it is effective, a general license to practice
 7 dental hygiene issued under this title authorizes the licensee to practice dental
 8 hygiene under [the] general supervision [of a licensed dentist] in:

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

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

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

15 **4. A FACILITY OWNED AND OPERATED BY THE**
 16 **DEPARTMENT OF JUVENILE SERVICES;**

17 ~~4.5.~~ **5. A FACILITY OWNED AND OPERATED BY THE**
 18 **STATE OR A LOCAL GOVERNMENT THAT PROVIDES MEDICAL CARE TO THE**
 19 **POOR, ELDERLY, OR HANDICAPPED;**

20 ~~5.6.~~ **6. A FACILITY IN WHICH A FEDERALLY QUALIFIED**
 21 **HEALTH CENTER OR A FEDERALLY QUALIFIED HEALTH CENTER LOOK-ALIKE IS**
 22 **LOCATED; OR**

23 ~~6.7.~~ **7. A FACILITY IN WHICH A STATE LICENSED HEAD**
 24 **START PROGRAM OR EARLY HEAD START PROGRAM OPERATES.**

25 **(II) BEFORE A FACILITY MAY ALLOW A DENTAL HYGIENIST**
 26 **AUTHORIZED TO PRACTICE DENTAL HYGIENE UNDER GENERAL SUPERVISION IN**
 27 **ACCORDANCE WITH THIS SUBSECTION TO PRACTICE IN THE FACILITY, THE**
 28 **FACILITY SHALL REPORT TO THE BOARD:**

29 **1. THAT THE FACILITY IS OPERATING UNDER**
 30 **GENERAL SUPERVISION; AND**

31 **2. THE IDENTITY OF EACH SUPERVISING DENTIST**
 32 **AND EACH DENTAL HYGIENIST.**

1 [(3)] (4) A facility in which a dental hygienist is authorized to
2 practice under the general supervision of a licensed dentist **IN ACCORDANCE WITH**
3 **THIS SUBSECTION** shall ensure that:

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

5 1. Holds an active general license to practice dentistry in
6 the State;

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

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

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

13 1. Holds an active general license to practice dental
14 hygiene in the State;

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

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

19 4. **IS A PERMANENT OR CONTRACTUAL EMPLOYEE**
20 **OF THE FEDERAL GOVERNMENT, A STATE OR LOCAL GOVERNMENT, OR A**
21 **FEDERALLY QUALIFIED HEALTH CENTER;**

22 (iii) The facility has [a]:

23 1. **A medical emergency plan; [and]**

24 2. **ADEQUATE EQUIPMENT, INCLUDING PORTABLE**
25 **EQUIPMENT WHERE APPROPRIATE AND APPROPRIATE ARMAMENTARIUM, IS**
26 **AVAILABLE FOR THE APPROPRIATE DELIVERY OF DENTAL HYGIENE SERVICES;**
27 **AND**

28 3. **ADEQUATE SAFEGUARDS TO PROTECT THE**
29 **PATIENT'S HEALTH AND SAFETY;**

30 (iv) A recall patient who has been examined by a dental
31 hygienist practicing under the general supervision of a licensed dentist will be

1 scheduled for an oral examination every 6 months, or as otherwise recommended by
2 the supervising [dentist.] **DENTIST;**

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

6 1. Before the initial treatment of a patient by a dental
7 hygienist practicing under the general supervision of a licensed dentist, the
8 supervising dentist, the patient's dentist, or the treating physician evaluates the
9 patient's medical history and determines its impact on the patient's suitability to
10 receive oral health treatment;

11 2. The supervising dentist diagnoses the patient and
12 approves the treatment plan for the patient;

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

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

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

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

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

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

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

31 (ii) The identity of each supervising dentist and each dental
32 hygienist.

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

1 (VIII) **REPORTS** to the Board any changes in the status of the
2 facility's general supervision, any supervising dentist, or any dental hygienist within
3 30 days after the change.

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

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

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.