

CHAPTER 316

(House Bill 1280)

AN ACT concerning

Public Health Dental Hygiene Act

FOR the purpose of altering the authorization of a general license to practice dental hygiene to include the application of certain sealants or fluoride agents under certain supervision in certain facilities; providing that a certain waiver is not required to practice dental hygiene under certain supervision in accordance with certain provisions of law; increasing the types of facilities a general license to practice dental hygiene authorizes a dental hygienist to practice in under certain supervision; altering the requirements for certain facilities in which certain dental hygienists are authorized to practice under certain supervision; defining ~~a certain term~~ certain terms; and generally relating to the practice of dental hygiene.

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

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

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

Article – Health Occupations

4–101.

(k) “Practice dental hygiene” means to:

- (1) Perform a preliminary dental examination;
- (2) Perform a complete prophylaxis, including the removal of any deposit, accretion, or stain from the surface of a tooth or a restoration;

- (3) Polish a tooth or a restoration;
- (4) Chart cavities, restorations, missing teeth, periodontal conditions, and other features observed during preliminary examination, prophylaxis, or polishing;
- (5) Apply a medicinal agent to a tooth for a prophylactic purpose;
- (6) Take a dental X ray; or
- (7) Perform any other intraoral function that the Board authorizes by a rule or regulation adopted under § 4–206 of this title.

(1) “Practice dentistry” means to:

- (1) Be a manager, a proprietor, or a conductor of or an operator in any place in which a dental service or dental operation is performed intraorally;
- (2) Perform or attempt to perform any intraoral dental service or intraoral dental operation;
- (3) Diagnose, treat, or attempt to diagnose or treat any disease, injury, malocclusion, or malposition of a tooth, gum, or jaw, or structures associated with a tooth, gum, or jaw if the service, operation, or procedure is included in the curricula of an accredited dental school or in an approved dental residency program of an accredited hospital or teaching institution;
- (4) Perform or offer to perform dental laboratory work;
- (5) Place or adjust a dental appliance in a human mouth; or
- (6) Administer anesthesia for the purposes of dentistry and not as a medical specialty.

4–308.

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

- (i) Under the supervision of a licensed dentist who is:
 1. On the premises and available for personal consultation while the services are being performed; or

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

(ii) Only in a:

1. Dental office;
2. Dental clinic;
3. Hospital;
4. School;
5. Charitable institution; or

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

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

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

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

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

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

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

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

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

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

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

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

(iii) The Board finds that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(II) THIS SUBSECTION MAY NOT BE CONSTRUED TO:

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

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

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

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

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

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

3. A HEALTH FACILITY IN WHICH A PROGRAM LICENSED BY THE DEPARTMENT IS OPERATING;

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

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

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

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

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

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

2. THE IDENTITY OF EACH SUPERVISING DENTIST AND EACH DENTAL HYGIENIST.

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

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

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

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

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

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

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

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

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

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

(iii) The facility has [a]:

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

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

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

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

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

1. Before the initial treatment of a patient by a dental hygienist practicing under the general supervision of a licensed dentist, the

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

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

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

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

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

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

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

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

- (i) That the facility is operating under general supervision; and
- (ii) The identity of each supervising dentist and each dental hygienist.

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

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

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

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

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

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

Approved by the Governor, April 24, 2008.