

SENATE BILL 602

J2

9lr2137

By: **Senators Pinsky, Colburn, Conway, Dyson, Harrington, Lenett, ~~and Rosapepe~~ Rosapepe, and Middleton**

Introduced and read first time: February 6, 2009

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 25, 2009

CHAPTER _____

1 AN ACT concerning

2 **Dental Hygienists - Expanded Functions**

3 FOR the purpose of altering the definition of “practice dental hygiene”; authorizing the
4 State Board of Dental Examiners to adopt certain regulations; altering the
5 authority of the Board to adopt certain rules and regulations concerning the
6 administration of certain anesthesia by certain dental hygienists; authorizing
7 certain dental hygienists to administer certain anesthesia under certain
8 circumstances; requiring certain dental hygienists to meet certain educational
9 and examination requirements before performing certain functions; altering a
10 certain calculation of the number of unsupervised clinical hours worked by
11 supervised dental hygienists under certain circumstances; and generally
12 relating to the practice of dental hygiene.

13 BY repealing and reenacting, with amendments,
14 Article – Health Occupations
15 Section 4–101(k), 4–205(a)(1), 4–206, and 4–308(i)
16 Annotated Code of Maryland
17 (2005 Replacement Volume and 2008 Supplement)

18 BY adding to
19 Article – Health Occupations
20 Section 4–206.1
21 Annotated Code of Maryland
22 (2005 Replacement Volume and 2008 Supplement)

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

3 **Article – Health Occupations**

4 4–101.

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

6 (1) Perform a preliminary dental examination;

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

9 (3) Polish a tooth or a restoration;

10 (4) Chart cavities, restorations, missing teeth, periodontal conditions,
11 and other features observed during preliminary examination, prophylaxis, or
12 polishing;

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

14 (6) Take a dental X ray; [or]

15 **(7) PERFORM A MANUAL CURETTAGE IN CONJUNCTION WITH**
16 **SCALING AND ROOT PLANING;**

17 **(8) MONITOR A PATIENT TO WHOM UP TO 50% NITROUS OXIDE IS**
18 **ADMINISTERED;**

19 **(9) ADMINISTER LOCAL ANESTHESIA IN ACCORDANCE WITH §**
20 **4–206.1 OF THIS TITLE; OR**

21 **[(7)] (10) Perform any other intraoral function that the Board**
22 **authorizes by a rule or regulation adopted under § 4–206 of this title.**

23 4–205.

24 (a) In addition to the powers set forth elsewhere in this title, the Board may:

25 (1) Adopt regulations governing:

26 (i) The administration of general anesthesia by a licensed
27 dentist;

28 (ii) The administration of sedation by a licensed dentist;

1 (iii) The use of a dental assistant by a licensed dentist in
2 performing intraoral procedures;

3 (iv) Subject to subsection (b) of this section, the issuance of a
4 permit to a facility not otherwise regulated where a dentist administers or has general
5 anesthesia or sedation administered;

6 (v) Subject to subsection (b) of this section, the issuance of a
7 permit to a dentist who administers or has general anesthesia or sedation
8 administered;

9 (vi) Reasonable requirements for the training and evaluation of
10 a dentist before the dentist may administer general anesthesia or sedation other than
11 nitrous oxide administered alone and not in conjunction with:

- 12 1. Another method of diminishing or eliminating pain; or
- 13 2. Medication used for diminishing or eliminating
14 anxiety;

15 (VII) REASONABLE REQUIREMENTS FOR:

16 1. THE EDUCATION, TRAINING, EVALUATION, AND
17 EXAMINATION OF A DENTAL HYGIENIST BEFORE THE DENTAL HYGIENIST MAY
18 PERFORM MANUAL CURETTAGE IN CONJUNCTION WITH SCALING AND ROOT
19 PLANING; AND

20 2. PERFORMANCE BY A DENTAL HYGIENIST OF
21 MANUAL CURETTAGE IN CONJUNCTION WITH SCALING AND ROOT PLANING;

22 (VIII) REASONABLE REQUIREMENTS FOR:

23 1. THE EDUCATION, TRAINING, EVALUATION, AND
24 EXAMINATION OF A DENTAL HYGIENIST BEFORE A DENTAL HYGIENIST MAY
25 MONITOR A PATIENT BEING ADMINISTERED NITROUS OXIDE; AND

26 2. MONITORING BY A DENTAL HYGIENIST OF A
27 PATIENT BEING ADMINISTERED NITROUS OXIDE;

28 (IX) REASONABLE REQUIREMENTS FOR:

29 1. THE EDUCATION, TRAINING, EVALUATION, AND
30 EXAMINATION OF A DENTAL HYGIENIST BEFORE THE DENTAL HYGIENIST MAY
31 ADMINISTER LOCAL ANESTHESIA UNDER § 4-206.1 OF THIS SUBTITLE; AND

1 **2. ADMINISTERING BY A DENTAL HYGIENIST OF**
 2 **LOCAL ANESTHESIA UNDER § 4-206.1 OF THIS SUBTITLE;**

3 [[vii]] **(X)** The discipline of a holder of any facility or
 4 administration permit for the administration of general anesthesia or sedation; and

5 [[viii]] **(XI)** The release of patient dental records;

6 4-206.

7 (a) Except as otherwise provided in this section, the Board may adopt rules
 8 and regulations that authorize a licensed dental hygienist to perform additional
 9 intraoral functions.

10 (b) The Board may not authorize a licensed dental hygienist to:

11 (1) Perform a diagnosis;

12 (2) Perform an extraction;

13 (3) Repair a cavity;

14 (4) Correct tooth placement;

15 (5) Perform a surgical procedure; or

16 (6) Administer anesthesia other than **THE FOLLOWING:**

17 **(I) [topical] TOPICAL anesthesia; OR**

18 **(II) LOCAL ANESTHESIA IN ACCORDANCE WITH § 4-206.1 OF**
 19 **THIS SUBTITLE.**

20 **4-206.1.**

21 **(A) SUBJECT TO THE REQUIREMENTS OF SUBSECTIONS (B) AND (C) OF**
 22 **THIS SECTION, A DENTAL HYGIENIST MAY ADMINISTER LOCAL ANESTHESIA BY**
 23 **INFILTRATION FOR THE PURPOSE OF ANESTHETIZING SOFT TISSUE TO**
 24 **FACILITATE THE PERFORMANCE OF DENTAL HYGIENE PROCEDURES, BUT NOT**
 25 **AS A MEDICAL SPECIALTY, PROVIDED THE ADMINISTRATION OF LOCAL**
 26 **ANESTHESIA IS UNDER THE SUPERVISION OF A DENTIST WHO:**

27 **(1) IS PHYSICALLY PRESENT ON THE PREMISES; AND**

28 **(2) PRESCRIBES THE ADMINISTRATION OF LOCAL ANESTHESIA**
 29 **BY THE DENTAL HYGIENIST.**

1 **(B) BEFORE A DENTAL HYGIENIST MAY ADMINISTER LOCAL**
2 **ANESTHESIA UNDER SUBSECTION (A) OF THIS SECTION, THE DENTAL HYGIENIST**
3 **SHALL SUCCESSFULLY COMPLETE THE FOLLOWING:**

4 **(1) ANY EDUCATIONAL REQUIREMENTS ESTABLISHED BY THE**
5 **BOARD; AND**

6 **(2) A WRITTEN AND CLINICAL EXAMINATION AS REQUIRED BY**
7 **THE BOARD.**

8 **(C) A DENTAL HYGIENIST SHALL OBTAIN THE EDUCATIONAL**
9 **REQUIREMENTS ESTABLISHED BY THE BOARD UNDER SUBSECTION (B)(1) OF**
10 **THIS SECTION FROM AN ACCREDITED DENTAL HYGIENE PROGRAM.**

11 4-308.

12 (i) (1) In this subsection, “private dental office” means a dental office
13 owned and operated by:

14 (i) A licensed dentist; or

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

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

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

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

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

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

28 (iv) There is a written agreement between the supervising
29 dentist and the dental hygienist practicing under general supervision that clearly sets
30 forth the terms and conditions under which the dental hygienist may practice,
31 including a statement that the dental hygienist may provide dental hygiene services
32 without the supervising dentist on the premises.

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

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

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

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

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

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

17 2. Consent to receiving the dental hygiene services;

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

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

22 (vi) The number of unsupervised clinical hours worked by a
23 supervised dental hygienist in any given [calendar week] **3-MONTH PERIOD** is less
24 than 60 percent of the dental hygienist's total hours **WORKED DURING THAT**
25 **3-MONTH PERIOD.**

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

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2009.