

CHAPTER 566

(House Bill 576)

AN ACT concerning

Dental Hygienists – Expanded Functions

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

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

BY adding to
Article – Health Occupations
Section 4–206.1
Annotated Code of Maryland
(2005 Replacement Volume and 2008 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 A MANUAL CURETTAGE IN CONJUNCTION WITH SCALING AND ROOT PLANING;**
- ~~**(8) MONITOR A PATIENT TO WHOM NITROUS OXIDE IS ADMINISTERED;**~~
- ~~**(9)**~~ **(8) ADMINISTER LOCAL ANESTHESIA IN ACCORDANCE WITH § 4-206.1 OF THIS TITLE; OR**
- ~~[(7)]~~ ~~**(10)**~~ **(9)** Perform any other intraoral function that the Board authorizes by a rule or regulation adopted under § 4-206 of this title.

4-205.

- (a) In addition to the powers set forth elsewhere in this title, the Board may:
 - (1) Adopt regulations governing:
 - (i) The administration of general anesthesia by a licensed dentist;
 - (ii) The administration of sedation by a licensed dentist;
 - (iii) The use of a dental assistant by a licensed dentist in performing intraoral procedures;
 - (iv) Subject to subsection (b) of this section, the issuance of a permit to a facility not otherwise regulated where a dentist administers or has general anesthesia or sedation administered;
 - (v) Subject to subsection (b) of this section, the issuance of a permit to a dentist who administers or has general anesthesia or sedation administered;

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

1. Another method of diminishing or eliminating pain; or
2. Medication used for diminishing or eliminating anxiety;

(VII) REASONABLE REQUIREMENTS FOR:

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

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

~~**(VIII) REASONABLE REQUIREMENTS FOR:**~~

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

~~**2. MONITORING BY A DENTAL HYGIENIST OF A PATIENT BEING ADMINISTERED NITROUS OXIDE;**~~

~~**(IX) (VIII) REASONABLE REQUIREMENTS FOR:**~~

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

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

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

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

4-206.

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

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

- (1) Perform a diagnosis;
- (2) Perform an extraction;
- (3) Repair a cavity;
- (4) Correct tooth placement;
- (5) Perform a surgical procedure; or
- (6) Administer anesthesia other than **THE FOLLOWING:**

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

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

4-206.1.

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

(1) IS PHYSICALLY PRESENT ON THE PREMISES; AND

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

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

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

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

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

4-308.

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

(i) A licensed dentist; or

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

(2) 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 a private dental office.

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

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

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

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

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

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

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

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

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

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

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

2. Consent to receiving the dental hygiene services;

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

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

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

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

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

Approved by the Governor, May 19, 2009.