

HOUSE BILL 354

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CF SB 578

By: **Delegates V. Turner, Alston, Costa, Donoghue, Elliott, Healey, Hubbard, Kach, Murphy, Nathan–Pulliam, Oaks, Pena–Melnik, Valderrama, and Valentino–Smith**

Introduced and read first time: February 3, 2011

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 9, 2011

CHAPTER _____

1 AN ACT concerning

2 **Health Occupations – Temporary Volunteer Dentist’s License, Temporary**
3 **Volunteer Dental Hygienist’s License, and Temporary Dental Clinic Permit**

4 FOR the purpose of establishing a temporary volunteer dentist’s license, a temporary
5 volunteer dental hygienist’s license, and a temporary dental clinic permit under
6 the State Board of Dental Examiners; altering a certain qualification for certain
7 dentists and dental hygienists licensed in another state to be granted a license
8 in this State; establishing certain procedures for dentists, dental hygienists, and
9 bona fide charitable organizations to apply for certain licenses and permits;
10 establishing the scope of practice of certain licenses; prohibiting the Board from
11 requiring continuing education as a condition for the issuance of certain
12 licenses; requiring temporary dental clinics to have a medical emergency plan,
13 certain equipment, and certain safeguards; specifying certain powers of the
14 Board; altering certain definitions; defining a certain term; making a stylistic
15 change; and generally relating to the establishment of a temporary volunteer
16 dentist’s license, a temporary volunteer dental hygienist’s license, and a
17 temporary dental clinic permit.

18 BY repealing and reenacting, with amendments,
19 Article – Health Occupations
20 Section 4–101, 4–304, 4–306(b), and 4–308
21 Annotated Code of Maryland
22 (2009 Replacement Volume and 2010 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.



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

Article – Health Occupations

4–101.

(a) In this title the following words have the meanings indicated.

(b) “Board” means the State Board of Dental Examiners.

(c) “Dental appliance” means any:

(1) Oral prosthesis;

(2) Orthodontic appliance;

(3) Regulatory appliance;

(4) Supportive appliance; or

(5) Other intraoral appliance or restoration.

(d) “Dental hygienist” means an individual, other than a dentist, who practices dental hygiene.

(e) “Dental laboratory” means any commercial laboratory or workroom in which a person engages in dental laboratory work.

(f) “Dental laboratory work” means making, repairing, or altering a dental appliance extraorally.

(g) “Dentist” means an individual who practices dentistry.

(h) (1) “License” means, unless the context requires otherwise, a license issued by the Board to:

(i) Practice dentistry; or

(ii) Practice dental hygiene.

(2) “License” includes, unless the context requires otherwise:

(i) A general license to practice dentistry;

(ii) A limited license to practice dentistry;

(iii) A teacher's license to practice dentistry;

(iv) A general license to practice dental hygiene;

(v) A teacher's license to practice dental hygiene;

(vi) A retired volunteer dentist's license to practice dentistry;

(vii) A retired volunteer dental hygienist's license to practice dental hygiene;

(viii) A volunteer dentist's license to practice dentistry; [and]

(ix) A volunteer dental hygienist's license to practice dental hygiene;

(X) A TEMPORARY VOLUNTEER DENTIST'S LICENSE TO PRACTICE DENTISTRY; AND

(XI) A TEMPORARY DENTAL HYGIENIST'S LICENSE TO PRACTICE DENTAL HYGIENE.

(i) (1) "Licensed dental hygienist" means, unless the context requires otherwise, a dental hygienist who is licensed by the Board to practice dental hygiene.

(2) "Licensed dental hygienist" includes, unless the context requires otherwise, a holder of:

(i) A general license to practice dental hygiene;

(ii) A teacher's license to practice dental hygiene;

(iii) A retired volunteer dental hygienist's license to practice dental hygiene; [or]

(iv) A volunteer dental hygienist's license to practice dental hygiene; **OR**

(V) A TEMPORARY VOLUNTEER DENTAL HYGIENIST'S LICENSE TO PRACTICE DENTAL HYGIENE.

(j) (1) "Licensed dentist" means, unless the context requires otherwise, a dentist who is licensed by the Board to practice dentistry.

(2) "Licensed dentist" includes, unless the context requires otherwise, a holder of:

- 1 (i) A general license to practice dentistry;
2 (ii) A limited license to practice dentistry;
3 (iii) A teacher's license to practice dentistry;
4 (iv) A retired volunteer dentist's license to practice dentistry;
5 [or]

6 (v) A volunteer dentist's license to practice dentistry; **OR**
7 **(VI) A TEMPORARY VOLUNTEER DENTIST'S LICENSE TO**
8 **PRACTICE DENTISTRY.**

- 9 (k) "Practice dental hygiene" means to:
10 (1) Perform a preliminary dental examination;
11 (2) Perform a complete prophylaxis, including the removal of any
12 deposit, accretion, or stain from the surface of a tooth or a restoration;
13 (3) Polish a tooth or a restoration;
14 (4) Chart cavities, restorations, missing teeth, periodontal conditions,
15 and other features observed during preliminary examination, prophylaxis, or
16 polishing;
17 (5) Apply a medicinal agent to a tooth for a prophylactic purpose;
18 (6) Take a dental X ray;
19 (7) Perform a manual curettage in conjunction with scaling and root
20 planing;
21 (8) Administer local anesthesia in accordance with § 4-206.1 of this
22 title; or
23 (9) Perform any other intraoral function that the Board authorizes by
24 a rule or regulation adopted under § 4-206 of this title.

- 25 (l) "Practice dentistry" means to:
26 (1) Be a manager, a proprietor, or a conductor of or an operator in any
27 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.

(m) Except as provided in § [4-308(e)(2)] **4-308(F)(2)** of this title, “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 but is available on the premises.

(N) “TEMPORARY DENTAL CLINIC PERMIT” MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A TEMPORARY PERMIT ISSUED BY THE BOARD TO A BONA FIDE CHARITABLE ORGANIZATION TO PROVIDE DENTAL SERVICES TO THE POOR, ELDERLY, OR DISABLED AT A DENTAL CLINIC.

[(n)] (O) “Third party” means any person who collects premiums, assumes financial risks, pays claims, or provides administrative services relating to any:

(1) Insurance policy;

(2) Insurance contract;

(3) Health prepayment contract;

(4) Health care plan; or

(5) Nonprofit health service plan contract.

4-304.

(a) To apply for a license, an applicant shall:

(1) Submit an application to the Board on the form that the Board requires; and

(2) Pay to the Board an application fee set by the Board.

(b) In addition to the other requirements of this section, an applicant for a limited license to practice dentistry shall submit to the Board a written request, from the hospital, sanatorium, dental school, or public health program to which the practice is to be limited, that the license be issued.

(c) To apply for a retired volunteer dentist's license [or], a volunteer dentist's license, **OR A TEMPORARY VOLUNTEER DENTIST'S LICENSE** to practice dentistry, an applicant:

(1) Shall submit an application to the Board on the form that the Board requires; and

(2) May not be required to pay an application fee.

(d) (1) At least 30 days before the examination, an applicant for a general license to practice dental hygiene shall submit the application to the Board.

(2) In addition to the other requirements of this section, an applicant for a license to practice dental hygiene shall submit to the Board:

(i) Satisfactory evidence of graduation from a dental hygiene program accredited by the American Dental Association Commission on Dental Accreditation; and

(ii) Any other credentials that the Board requires.

(e) To apply for a retired volunteer dental hygienist's license [or], a volunteer dental hygienist's license, **OR A TEMPORARY VOLUNTEER DENTAL HYGIENIST'S LICENSE** to practice dental hygiene, an applicant:

(1) Shall submit an application to the Board on the form that the Board requires; and

(2) May not be required to pay an application fee.

(F) TO APPLY FOR A TEMPORARY DENTAL CLINIC PERMIT, AN APPLICANT:

(1) SHALL SUBMIT AN APPLICATION ON THE FORM THAT THE BOARD REQUIRES; AND

(2) MAY NOT BE REQUIRED TO PAY AN APPLICATION FEE.

1 (b) (1) (i) A dentist licensed in any other state who has passed a
2 regional board shall be granted a license in this State if the applicant passes the
3 following examinations given by or designated by the Board:

4 1. A comprehensive examination on applied clinical
5 diagnosis and treatment planning; and

6 2. A law examination.

7 (ii) A dentist licensed in any other state who has not passed a
8 regional board shall be granted a license in this State if:

9 1. For the 5 preceding years the dentist has been
10 actively engaged in practicing dentistry **FOR AT LEAST 850 HOURS ON AVERAGE**
11 **PER YEAR;** and

12 2. The applicant passes the following examinations
13 given by or designated by the Board:

14 A. A comprehensive examination on applied clinical
15 diagnosis and treatment planning; and

16 B. A law examination.

17 (2) (i) A dental hygienist licensed in any other state who has
18 passed a regional board shall be granted a license in this State if the applicant passes
19 an examination given by the Board.

20 (ii) A dental hygienist licensed in any other state who has not
21 passed a regional board shall be granted a license in this State if:

22 1. For the 3 preceding years the dental hygienist has
23 been actively engaged in practicing dental hygiene **FOR AT LEAST 150 HOURS ON**
24 **AVERAGE PER YEAR;** and

25 2. The applicant passes an examination given by or
26 designated by the Board.

27 4-308.

28 (a) A general license to practice dentistry issued under this title authorizes
29 the licensee to practice dentistry while the license is effective.

30 (b) While it is effective, a limited license to practice dentistry issued under
31 this title authorizes the licensee to practice dentistry, including as an intern or a
32 resident:

(1) Only for the institution or public health program named on the license; and

(2) Only on patients of the institution or public health program named on the license.

(c) While it is effective, a retired volunteer dentist's license or a volunteer dentist's license to practice dentistry issued under this title authorizes the licensee to practice dentistry:

(1) Only in a dental office, dental clinic, ambulatory care facility, or hospital;

(2) Only for an entity providing medical care to the poor, elderly, or [handicapped] **DISABLED** that is operated by:

(i) The State or a local government;

(ii) A bona fide charitable organization; or

(iii) Any other entity authorized under regulations adopted by the Board;

(3) If the dentist signs a written statement agreeing to donate at least 100 hours of dental services without compensation in a facility that satisfies the requirements of items (1) and (2) of this subsection;

(4) If the dentist provides documentation as required by the Board which evidences that the licensee is covered by malpractice insurance; and

(5) If the dentist does not otherwise practice dentistry for profit in Maryland.

(D) (1) WHILE IT IS EFFECTIVE, A TEMPORARY VOLUNTEER DENTIST'S LICENSE ISSUED UNDER THIS TITLE AUTHORIZES THE LICENSEE TO PRACTICE DENTISTRY:

(I) ONLY IN A TEMPORARY DENTAL CLINIC PROVIDING MEDICAL CARE TO THE POOR, ELDERLY, OR DISABLED THAT IS OPERATED BY:

1. A BONA FIDE CHARITABLE ORGANIZATION;

2. THE STATE OR A LOCAL GOVERNMENT; OR

3. A LOCAL HEALTH DEPARTMENT;

1 (ii) 1. IF THE DENTIST HOLDS A GENERAL LICENSE TO
2 PRACTICE DENTISTRY IN ANOTHER STATE THAT PERMITS CLINICAL PRACTICE
3 AND THE DENTIST IS NOT SUBJECT TO CLINICAL RESTRICTIONS; AND

4 2. THE DENTIST HAS PASSED:

5 A. THE NORTH EAST BOARD REGIONAL CLINICAL
6 EXAMINATION; OR

7 B. HAS SUBMITTED TO THE BOARD A NOTARIZED
8 AFFIDAVIT OR OTHER EVIDENCE SATISFACTORY TO THE BOARD INDICATING
9 THAT FOR THE 5 YEARS PRECEDING APPLICATION, THE APPLICANT HAS
10 ACTIVELY ENGAGED IN PRACTICING DENTISTRY FOR AT LEAST 850 HOURS ON
11 AVERAGE PER YEAR;

12 (iii) IF THE DENTIST HAS FULFILLED ANY REQUIREMENTS
13 OF THE BOARD RELATING TO KNOWLEDGE OF THE REGULATIONS ADOPTED BY
14 THE BOARD AND THE LAWS CONCERNING THE PRACTICE OF DENTISTRY IN THE
15 STATE;

16 (iv) IF THE DENTIST PROVIDES A NOTARIZED AFFIDAVIT TO
17 THE BOARD AGREEING TO DONATE DENTAL SERVICES WITHOUT
18 COMPENSATION FOR A ~~BONA FIDE CHARITABLE ORGANIZATION~~ TEMPORARY
19 DENTAL CLINIC THAT SATISFIES THE REQUIREMENTS OF SUBSECTION (I) OF
20 THIS SECTION;

21 (v) IF THE DENTIST PROVIDES DOCUMENTATION AS
22 REQUIRED BY THE BOARD THAT EVIDENCES THAT THE DENTIST IS COVERED BY
23 MALPRACTICE INSURANCE;

24 (vi) IF THE DENTIST DOES NOT OTHERWISE PRACTICE
25 DENTISTRY FOR PROFIT IN THE STATE; AND

26 (vii) IF THE DENTIST PROVIDES VERIFICATION OF CURRENT
27 CARDIOPULMONARY RESUSCITATION CERTIFICATION.

28 (2) A DENTIST WHO HOLDS A TEMPORARY VOLUNTEER DENTIST'S
29 LICENSE MAY NOT ADMINISTER, MAINTAIN, OR MONITOR GENERAL ANESTHESIA
30 OR SEDATION.

31 (3) A DENTIST WHO HOLDS A TEMPORARY VOLUNTEER DENTIST'S
32 LICENSE MAY ONLY PROVIDE SERVICES AUTHORIZED UNDER THE MARYLAND
33 DENTISTRY ACT AND THE REGULATIONS ADOPTED BY THE BOARD.

(4) A DENTIST WHO HOLDS A TEMPORARY VOLUNTEER DENTIST'S LICENSE OR THE TEMPORARY DENTAL CLINIC IN WHICH THE DENTIST IS PROVIDING SERVICES SHALL PROVIDE A FORM TO A PATIENT AT THE CONCLUSION OF TREATMENT THAT CONTAINS:

(I) A SUMMARY OF THE SERVICES THAT WERE PROVIDED TO THE PATIENT BY THE DENTIST AND, IF APPLICABLE, THE DENTAL HYGIENIST; AND

(II) INSTRUCTIONS FOR ANY RECOMMENDED FOLLOW-UP DENTAL CARE.

(5) THE BOARD MAY DENY A TEMPORARY VOLUNTEER DENTIST'S LICENSE ON THE GROUNDS PROVIDED UNDER § 4-315 OF THIS SUBTITLE.

(6) (I) A TEMPORARY VOLUNTEER DENTIST'S LICENSE ISSUED TO A DENTIST UNDER THIS TITLE SHALL BE ISSUED FOR THE DURATION OF THE TEMPORARY DENTAL CLINIC ONLY AND MAY NOT BE RENEWED.

(II) THE BOARD MAY ISSUE ANOTHER TEMPORARY VOLUNTEER DENTIST'S LICENSE IF THE DENTIST APPLIES FOR THE LICENSE AND SATISFIES THE REQUIREMENTS OF THIS SUBSECTION.

(7) THE BOARD MAY NOT REQUIRE CONTINUING EDUCATION AS A CONDITION FOR THE ISSUANCE OF A TEMPORARY VOLUNTEER DENTIST'S LICENSE.

[(d)] (E) While it is effective, a teacher's license to practice dentistry issued under this title authorizes the licensee to practice dentistry at only the following institutions:

(1) The institution named on the license; and

(2) Other affiliated institutions as appropriate because of the specialized nature of the services to be performed.

[(e)] (F) (1) Except as provided in subsection [(h)] (K) 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

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

4 (ii) Only in a:

- 5 1. Dental office;
- 6 2. Dental clinic;
- 7 3. Hospital;
- 8 4. School;
- 9 5. Charitable institution; or
- 10 6. Health maintenance organization certified by the
11 State Insurance Commissioner.

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

- 14 1. A dental facility owned and operated by the federal,
15 the State, or a local government;
- 16 2. A health facility licensed by the Department of Health
17 and Mental Hygiene;
- 18 3. A facility providing medical care to the poor, elderly,
19 or handicapped that is owned and operated by:
- 20 A. The State or a local government; or
- 21 B. A bona fide charitable organization; or
- 22 4. Any other setting authorized under regulations
23 adopted by the Board.

24 (ii) A waiver is not required to practice dental hygiene under
25 general supervision in accordance with subsection [(h)] **(K)** of this section.

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

28 (i) The facility requesting the waiver has submitted a written
29 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.

[(f)] (G) While it is effective, a retired volunteer dental hygienist's license or a volunteer hygienist's license to practice dental hygiene issued under this title authorizes the licensee to practice dental hygiene:

(1) Only in a dental office, dental clinic, ambulatory care facility, or hospital;

(2) Only for an entity providing medical care to the poor, elderly, or handicapped that is operated by:

(i) The State or a local government;

(ii) A bona fide charitable organization; or

(iii) Any other entity authorized under regulations adopted by the Board;

(3) If the dental hygienist signs a written statement agreeing to donate at least 100 hours of dental hygiene services without compensation in a facility that satisfies the requirements of items (1) and (2) of this subsection;

(4) If the dental hygienist provides documentation as required by the Board which evidences that the licensee is covered by malpractice insurance; and

(5) If the dental hygienist does not otherwise practice dental hygiene for profit in Maryland.

(H) (1) WHILE IT IS EFFECTIVE, A TEMPORARY VOLUNTEER DENTAL HYGIENIST'S LICENSE ISSUED UNDER THIS TITLE AUTHORIZES THE LICENSEE TO PRACTICE DENTAL HYGIENE:

(I) ONLY IN A TEMPORARY DENTAL CLINIC PROVIDING MEDICAL CARE TO THE POOR, ELDERLY, OR DISABLED THAT IS OPERATED BY:

1. A BONA FIDE CHARITABLE ORGANIZATION;

2. THE STATE OR A LOCAL GOVERNMENT; OR

3. A LOCAL HEALTH DEPARTMENT;

(II) IF THE DENTAL HYGIENIST HOLDS A GENERAL LICENSE TO PRACTICE DENTAL HYGIENE IN ANOTHER STATE THAT PERMITS CLINICAL PRACTICE AND THE DENTAL HYGIENIST IS NOT SUBJECT TO CLINICAL RESTRICTIONS;

(III) IN ADDITION TO HOLDING A GENERAL LICENSE TO PRACTICE DENTAL HYGIENE, IF THE DENTAL HYGIENIST:

1. PROVIDES DOCUMENTATION AS REQUIRED BY THE BOARD WHICH EVIDENCES THAT THE DENTAL HYGIENIST PASSED THE NORTH EAST REGIONAL CLINICAL EXAMINATION; OR

2. SUBMITS TO THE BOARD A NOTARIZED AFFIDAVIT OR OTHER EVIDENCE SATISFACTORY TO THE BOARD INDICATING THAT FOR THE 3 YEARS PRECEDING APPLICATION, THE DENTAL HYGIENIST HAS ACTIVELY ENGAGED IN PRACTICING DENTAL HYGIENE FOR AT LEAST 150 HOURS ON AVERAGE PER YEAR;

1 (IV) IF THE DENTAL HYGIENIST HAS FULFILLED ANY
2 REQUIREMENTS OF THE BOARD RELATED TO KNOWLEDGE OF THE LAWS AND
3 REGULATIONS GOVERNING THE PRACTICE OF DENTAL HYGIENE IN THE STATE;

4 (V) IF THE DENTAL HYGIENIST PROVIDES A NOTARIZED
5 AFFIDAVIT TO THE BOARD AGREEING TO DONATE DENTAL HYGIENE SERVICES
6 WITHOUT COMPENSATION FOR A ~~BONA FIDE CHARITABLE ORGANIZATION~~
7 TEMPORARY DENTAL CLINIC THAT SATISFIES THE REQUIREMENTS OF
8 SUBSECTION (I) OF THIS SECTION;

9 (VI) IF THE DENTAL HYGIENIST PROVIDES DOCUMENTATION
10 AS REQUIRED BY THE BOARD EVIDENCING THAT THE DENTAL HYGIENIST IS
11 COVERED BY MALPRACTICE INSURANCE;

12 (VII) IF THE DENTAL HYGIENIST DOES NOT OTHERWISE
13 PRACTICE DENTAL HYGIENE FOR PROFIT IN THE STATE; AND

14 (VIII) IF THE DENTAL HYGIENIST PROVIDES VERIFICATION OF
15 CURRENT CARDIOPULMONARY RESUSCITATION CERTIFICATION.

16 (2) A DENTAL HYGIENIST WHO HOLDS A TEMPORARY VOLUNTEER
17 DENTAL HYGIENIST'S LICENSE MAY ONLY PROVIDE SERVICES AUTHORIZED
18 UNDER THE MARYLAND DENTISTRY ACT AND THE REGULATIONS ADOPTED BY
19 THE BOARD.

20 (3) A DENTAL HYGIENIST WHO HOLDS A TEMPORARY VOLUNTEER
21 DENTAL HYGIENIST'S LICENSE MAY NOT:

22 (I) ADMINISTER LOCAL ANESTHESIA; OR

23 (II) ADMINISTER, MAINTAIN, OR MONITOR NITROUS OXIDE
24 OXYGEN.

25 (4) WHILE IT IS EFFECTIVE, A TEMPORARY VOLUNTEER DENTAL
26 HYGIENIST'S LICENSE ISSUED UNDER THIS TITLE AUTHORIZES THE LICENSEE
27 TO PRACTICE DENTAL HYGIENE UNDER THE GENERAL SUPERVISION OF A
28 DENTIST WHO:

29 (I) IS ON THE PREMISES;

30 (II) EXAMINES THE PATIENT AT ANY TIME DURING THE
31 TREATMENT; AND

1 (III) IS AVAILABLE FOR PERSONAL CONSULTATION WHILE
2 THE SERVICES ARE BEING PERFORMED.

3 (5) A DENTAL HYGIENIST MAY PERFORM AN ASSESSMENT OF
4 DENTAL NEEDS AND PROVIDE DENTAL HYGIENE SERVICES PRIOR TO AN
5 EXAMINATION BY A SUPERVISING DENTIST.

6 (6) THIS SUBSECTION MAY NOT BE CONSTRUED TO:

7 (I) REQUIRE A PRELIMINARY DENTAL EXAMINATION OR
8 TREATMENT BY A DENTAL HYGIENIST; OR

9 (II) PROHIBIT A SUPERVISING DENTIST FROM EITHER
10 EXAMINING A PATIENT OR PROVIDING TREATMENT TO A PATIENT PRIOR TO
11 TREATMENT BY A DENTAL HYGIENIST.

12 (7) THE BOARD MAY DENY A TEMPORARY VOLUNTEER LICENSE
13 TO PRACTICE DENTAL HYGIENE ON THE GROUNDS PROVIDED UNDER § 4-315 OF
14 THIS SUBTITLE.

15 (8) (I) A TEMPORARY VOLUNTEER DENTAL HYGIENIST'S
16 LICENSE ISSUED TO A DENTAL HYGIENIST UNDER THIS SECTION SHALL BE
17 ISSUED FOR THE DURATION OF THE TEMPORARY DENTAL CLINIC ONLY AND MAY
18 NOT BE RENEWED.

19 (II) THE BOARD MAY ISSUE ANOTHER TEMPORARY
20 VOLUNTEER DENTAL HYGIENIST'S LICENSE IF THE DENTAL HYGIENIST APPLIES
21 FOR THE LICENSE AND SATISFIES THE REQUIREMENTS OF THIS SUBSECTION.

22 (9) THE BOARD MAY NOT REQUIRE CONTINUING EDUCATION AS A
23 CONDITION FOR THE ISSUANCE OF A TEMPORARY VOLUNTEER DENTAL
24 HYGIENIST'S LICENSE.

25 (I) (1) WHILE IT IS EFFECTIVE, A TEMPORARY DENTAL CLINIC
26 PERMIT ISSUED TO A BONA FIDE CHARITABLE ORGANIZATION UNDER THIS
27 TITLE AUTHORIZES THE PERMIT HOLDER TO UTILIZE HOLDERS OF A
28 TEMPORARY VOLUNTEER DENTIST'S LICENSE OR A TEMPORARY VOLUNTEER
29 DENTAL HYGIENIST'S LICENSE TO PROVIDE DENTAL SERVICES TO THE POOR,
30 ELDERLY, OR DISABLED AT A TEMPORARY DENTAL CLINIC THAT IS OPERATED
31 BY THE BONA FIDE CHARITABLE ORGANIZATION.

32 (2) THE BOARD SHALL ISSUE A TEMPORARY DENTAL CLINIC
33 PERMIT TO A BONA FIDE CHARITABLE ORGANIZATION THAT MEETS THE
34 REQUIREMENTS OF THIS SUBSECTION.

1 **(3) (I) A TEMPORARY DENTAL CLINIC PERMIT ISSUED TO A**
2 **BONA FIDE CHARITABLE ORGANIZATION UNDER THIS TITLE SHALL BE ISSUED**
3 **FOR THE DURATION OF THE DENTAL CLINIC ONLY AND MAY NOT BE RENEWED.**

4 **(II) THE BOARD MAY ISSUE ANOTHER TEMPORARY DENTAL**
5 **CLINIC PERMIT TO A BONA FIDE CHARITABLE ORGANIZATION IF THE BONA FIDE**
6 **CHARITABLE ORGANIZATION APPLIES FOR THE PERMIT AND SATISFIES THE**
7 **REQUIREMENTS OF THIS SUBSECTION.**

8 **(4) A BONA FIDE CHARITABLE ORGANIZATION THAT CONDUCTS A**
9 **TEMPORARY DENTAL CLINIC UNDER THIS TITLE MAY NOT BE CONSTRUED TO BE**
10 **PRACTICING DENTISTRY AS DEFINED IN § 4-101 OF THIS TITLE.**

11 **(5) (I) THE STATE, A LOCAL GOVERNMENT, OR A LOCAL**
12 **HEALTH DEPARTMENT THAT PROVIDES DENTAL SERVICES TO THE POOR,**
13 **ELDERLY, OR DISABLED:**

14 **1. MAY NOT BE REQUIRED BY THE BOARD TO SEEK**
15 **AUTHORIZATION UNDER THIS TITLE TO PROVIDE THE SERVICES; AND**

16 **2. SHALL PROVIDE WRITTEN NOTICE TO THE BOARD**
17 **OF ITS INTENTION TO PROVIDE DENTAL SERVICES TO THE POOR, ELDERLY, OR**
18 **DISABLED AT LEAST 60 DAYS PRIOR TO THE DATE THE SERVICES ARE TO BE**
19 **PROVIDED.**

20 **(II) A HOLDER OF AN OUT-OF-STATE LICENSE TO PRACTICE**
21 **DENTISTRY OR DENTAL HYGIENE WHO WOULD LIKE TO PROVIDE DENTAL**
22 **SERVICES SPONSORED BY THE STATE, A LOCAL GOVERNMENT, OR A LOCAL**
23 **HEALTH DEPARTMENT SHALL OBTAIN A TEMPORARY VOLUNTEER DENTIST'S**
24 **LICENSE OR TEMPORARY VOLUNTEER DENTAL HYGIENIST'S LICENSE AS**
25 **PROVIDED IN THIS TITLE BEFORE PROVIDING THE DENTAL SERVICES.**

26 **(6) A HOLDER OF A TEMPORARY DENTAL CLINIC PERMIT SHALL**
27 **HAVE:**

28 **(I) A MEDICAL EMERGENCY PLAN;**

29 **(II) ADEQUATE EQUIPMENT, INCLUDING PORTABLE**
30 **EQUIPMENT WHERE APPROPRIATE, AND APPROPRIATE ARMAMENTARIUM**
31 **AVAILABLE FOR THE APPROPRIATE DELIVERY OF DENTAL SERVICES; AND**

32 **(III) ADEQUATE SAFEGUARDS TO PROTECT THE HEALTH AND**
33 **SAFETY OF PATIENTS.**

34 **(7) THE BOARD MAY:**

1 **(I) ENTER AND INSPECT A TEMPORARY DENTAL CLINIC IN**
2 **ORDER TO CARRY OUT A DUTY UNDER THIS TITLE; AND**

3 **(II) CONDUCT AN INVESTIGATION OF A TEMPORARY**
4 **DENTAL CLINIC OR A HOLDER OF A TEMPORARY VOLUNTEER DENTIST'S**
5 **LICENSE OR A TEMPORARY VOLUNTEER DENTAL HYGIENIST'S LICENSE**
6 **PROVIDING DENTAL SERVICES AT THE TEMPORARY DENTAL CLINIC.**

7 **[(g)] (J)** While it is effective, a teacher's license to practice dental hygiene
8 issued under this title authorizes the licensee to:

9 (1) Teach dental hygiene only at the institution named on the license;
10 and

11 (2) Practice dental hygiene under the general supervision of a licensed
12 dentist with the institution named on the license.

13 **[(h)] (K)** (1) (i) In this subsection the following words have the
14 meanings indicated.

15 (ii) "Contractual employee" means a dental hygienist who has
16 an annual contract to practice dental hygiene an average of at least 8 hours per week
17 in a facility specified under paragraph (3)(i) of this subsection.

18 (iii) "Facility" includes a program operated within a facility that
19 is specified under paragraph (3)(i) of this subsection.

20 (iv) "Federally qualified health center" has the meaning stated
21 in 42 U.S.C. § 254b(a).

22 (v) "Federally qualified health center look-alike" has the
23 meaning stated in 42 U.S.C. § 1396d(l)(2)(B).

24 (vi) "General supervision" means supervision of a dental
25 hygienist by a dentist, where the dentist may or may not be present when the dental
26 hygienist performs the dental hygiene procedures.

27 (2) (i) While effective, a general license to practice dental hygiene
28 issued under this title authorizes the licensee to practice dental hygiene and apply
29 sealants or fluoride agents such as professional topical fluoride treatments, mouth
30 rinse, or varnish:

31 1. Under general supervision in accordance with this
32 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)] (F) of this section.

(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 general supervision in:

1. A dental facility owned and operated by the federal, the State, or a local government;

2. A public health department or public school of the State or a county;

3. A facility in which a program licensed by the Department is operating;

4. A facility owned and operated by the Department of Juvenile Services;

5. A facility owned and operated by the State or a local government that provides medical care to the poor, elderly, or handicapped;

6. A facility in which a federally qualified health center or a federally qualified health center look-alike is located; or

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

1 2. The identity of each supervising dentist and each
2 dental hygienist.

3 (4) A facility in which a dental hygienist is authorized to practice
4 under the general supervision of a licensed dentist in accordance with this subsection
5 shall ensure that:

6 (i) The supervising dentist for the facility:

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

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

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

13 (ii) Each dental hygienist authorized to practice under the
14 general supervision of a licensed dentist in accordance with this subsection:

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

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

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

21 4. Is a permanent or contractual employee of the federal
22 government, a state or local government, or a federally qualified health center;

23 (iii) The facility has:

24 1. A medical emergency plan;

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

28 3. Adequate safeguards to protect the patient's health
29 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;

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

6 (vi) A dental hygienist consults with the supervising dentist, the
7 patient's dentist, or a treating physician before proceeding with treatment if there is a
8 change in the patient's medical history;

9 (vii) Adequate facilities and equipment are available for the
10 delivery of dental hygiene services other than fluoride rinse programs; and

11 (viii) Reports to the Board any changes in the status of the
12 facility's general supervision, any supervising dentist, or any dental hygienist within
13 30 days after the change.

14 **[(i)] (L)** (1) In this subsection, "private dental office" means a dental
15 office owned and operated by:

16 (i) A licensed dentist; or

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

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

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

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

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

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

30 (iv) There is a written agreement between the supervising
31 dentist and the dental hygienist practicing under general supervision that clearly sets
32 forth the terms and conditions under which the dental hygienist may practice,
33 including a statement that the dental hygienist may provide dental hygiene services
34 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 3-month period is less than 60 percent of the
24 dental hygienist's total hours worked during that 3-month period.

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

27 **[(j)] (M)** (1) (i) In this subsection the following words have the
28 meanings indicated.

29 (ii) "Assisted living program" has the meaning stated in §
30 19-1801 of the Health – General Article.

31 (iii) "General supervision" means supervision of a dental
32 hygienist by a dentist, where the dentist may or may not be present when the dental
33 hygienist performs the dental hygiene procedures.

(iv) “Long-term care facility” means:

1. A nursing home; or
2. An assisted living program.

(v) “Nursing home” has the meaning stated in § 19-1401 of the Health – General Article.

(2) (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 a long-term care facility in accordance with 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;
3. Prohibit a dental hygienist, without the supervision of a dentist, from performing a preliminary dental examination with subsequent referral to a dentist; or
4. Require a waiver under subsection [(e)] (F) of this section.

(3) Before a dental hygienist is authorized to practice dental hygiene under general supervision in a long-term care facility in accordance with this subsection, the dental hygienist shall:

- (i) Hold an active license to practice dental hygiene in the State;
- (ii) Hold a current certificate evidencing health provider level C proficiency, or its equivalent, in cardiopulmonary resuscitation;
- (iii) Have at least 2 years of active clinical practice in direct patient care; and
- (iv) Ensure that the long-term care facility where the dental hygienist will practice under general supervision has:

1. A written medical emergency plan in place;

1 2. Adequate equipment, including portable equipment
2 and appropriate armamentarium, available for the appropriate delivery of dental
3 hygiene services; and

4 3. Adequate safeguards to protect the patient's health
5 and safety.

6 (4) Before a dental hygienist is authorized to practice dental hygiene
7 under general supervision in a long-term care facility in accordance with this
8 subsection, the supervising dentist shall:

9 (i) Hold an active general license to practice dentistry in the
10 State;

11 (ii) Hold a current certificate evidencing health provider level C
12 proficiency, or its equivalent, in cardiopulmonary resuscitation; and

13 (iii) Have at least 2 years of active clinical practice in direct
14 patient care.

15 (5) A dental hygienist practicing under the general supervision of a
16 licensed dentist in a long-term care facility and performing an authorized dental
17 hygiene service for a patient's initial appointment shall:

18 (i) Have a written agreement between the supervising dentist
19 and the dental hygienist that clearly sets forth the terms and conditions under which
20 the dental hygienist may practice, including a statement that the dental hygienist
21 may provide dental hygiene services without the supervising dentist on the premises;

22 (ii) Ensure that the supervising dentist is available for
23 consultation with the dental hygienist:

24 1. In person;

25 2. By telephone; or

26 3. Electronically;

27 (iii) Consult with the supervising dentist or a treating physician
28 before proceeding with initial treatment if there is a change in a recall patient's
29 medical history;

30 (iv) Assess the appropriate recall interval based on the
31 individual needs of the patient, or as otherwise recommended by the supervising
32 dentist;

(v) Limit dental hygiene tasks and procedures to:

1. Toothbrush prophylaxis;

2. Application of fluoride;

3. Dental hygiene instruction;

4. Assessment of the patient's apparent need for further evaluation by a dentist in order to diagnose the presence of dental disease; and

5. Other duties as may be delegated, verbally or in writing, by the supervising dentist; and

(vi) Submit findings of the initial assessment to the supervising dentist for a determination of future treatment.

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

(i) The supervising dentist examines the patient and authorizes in the patient's record a prescription of specific treatment to be provided by the dental hygienist;

(ii) An authorized treatment is provided by the dental hygienist as soon as possible, but no later than 7 months from the date the patient was examined by the supervising dentist; and

(iii) Upon expiration of a prescribed treatment, the supervising dentist is responsible for determining future protocols for the treatment of the patient.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2011.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.