

HOUSE BILL 597

J2

9lr2152
CF 9lr3141

By: **Delegate Krebs**

Introduced and read first time: February 6, 2019

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Dentistry Act – Practice of Dentistry – Scope and Prohibited Act**

3 FOR the purpose of prohibiting a person from being considered to be practicing dentistry
4 or violating certain provisions of law based solely on whether the person provides
5 certain services or engages in certain acts; providing that certain provisions of law
6 do not prohibit a dentist or dental practice from contracting to receive or receiving
7 certain services or benefiting from certain acts; prohibiting the State Board of Dental
8 Examiners from prohibiting a person from contracting to provide or engaging in
9 certain services or benefiting from certain acts, or a dentist or dental practice from
10 contracting to receive or receiving certain services or benefiting from certain acts;
11 prohibiting a person from aiding or abetting the unauthorized practice of dentistry
12 in the State; defining a certain term; altering a certain definition; and generally
13 relating to the practice of dentistry.

14 BY repealing and reenacting, with amendments,
15 Article – Health Occupations
16 Section 4–101, 4–301, and 4–601
17 Annotated Code of Maryland
18 (2014 Replacement Volume and 2018 Supplement)

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

21 **Article – Health Occupations**

22 4–101.

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (c) “Dental appliance” means any:

2 (1) Oral prosthesis;

3 (2) Orthodontic appliance;

4 (3) Regulatory appliance;

5 (4) Supportive appliance; or

6 (5) Other intraoral appliance or restoration.

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

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

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

13 **(G) “DENTAL PRACTICE” MEANS AN ENTITY THAT IS:**

14 **(1) OWNED ENTIRELY BY ONE OR MORE LICENSED DENTISTS;**

15 **AND**

16 **(2) FORMED UNDER THE LAWS OF THE STATE FOR THE**
17 **PURPOSE OF RENDERING DENTAL SERVICES.**

18 **[(g)] (H)** “Dentist” means an individual who practices dentistry.

19 **[(h)] (I)** (1) “License” means, unless the context requires otherwise, a license
20 issued by the Board to:

21 (i) Practice dentistry; or

22 (ii) Practice dental hygiene.

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

24 (i) A general license to practice dentistry;

25 (ii) A limited license to practice dentistry;

26 (iii) A teacher’s license to practice dentistry;

- 1 (iv) A general license to practice dental hygiene;
- 2 (v) A teacher’s license to practice dental hygiene;
- 3 (vi) A retired volunteer dentist’s license to practice dentistry;
- 4 (vii) A retired volunteer dental hygienist’s license to practice dental
- 5 hygiene;
- 6 (viii) A volunteer dentist’s license to practice dentistry;
- 7 (ix) A volunteer dental hygienist’s license to practice dental hygiene;
- 8 (x) A temporary volunteer dentist’s license to practice dentistry; and
- 9 (xi) A temporary volunteer dental hygienist’s license to practice
- 10 dental hygiene.

11 **[(i)] (J)** (1) “Licensed dental hygienist” means, unless the context requires
 12 otherwise, a dental hygienist who is licensed by the Board to practice dental hygiene.

13 (2) “Licensed dental hygienist” includes, unless the context requires
 14 otherwise, a holder of:

- 15 (i) A general license to practice dental hygiene;
- 16 (ii) A teacher’s license to practice dental hygiene;
- 17 (iii) A retired volunteer dental hygienist’s license to practice dental
- 18 hygiene;
- 19 (iv) A volunteer dental hygienist’s license to practice dental hygiene;
- 20 or
- 21 (v) A temporary volunteer dental hygienist’s license to practice
- 22 dental hygiene.

23 **[(j)] (K)** (1) “Licensed dentist” means, unless the context requires otherwise,
 24 a dentist who is licensed by the Board to practice dentistry.

25 (2) “Licensed dentist” includes, unless the context requires otherwise, a
 26 holder of:

- 27 (i) A general license to practice dentistry;
- 28 (ii) A limited license to practice dentistry;

- 1 (iii) A teacher's license to practice dentistry;
- 2 (iv) A retired volunteer dentist's license to practice dentistry;
- 3 (v) A volunteer dentist's license to practice dentistry; or
- 4 (vi) A temporary volunteer dentist's license to practice dentistry.

5 **[(k)] (L)** "Practice dental hygiene" means to:

- 6 (1) Perform a preliminary dental examination;
- 7 (2) Perform a complete prophylaxis, including the removal of any deposit,
8 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, and
11 other features observed during preliminary examination, prophylaxis, or polishing;
- 12 (5) Apply a medicinal agent to a tooth for a prophylactic purpose;
- 13 (6) Take a dental X ray;
- 14 (7) Perform a manual curettage in conjunction with scaling and root
15 planning;
- 16 (8) Administer local anesthesia in accordance with § 4-206.1 or § 4-206.3
17 of this title;
- 18 (9) Administer nitrous oxide in accordance with § 4-206.2 of this title; or
- 19 (10) Perform any other intraoral function that the Board authorizes by a
20 rule or regulation adopted under § 4-206 of this title.

21 **[(l)] (M)** "Practice dentistry" means to:

- 22 (1) [Be a manager, a proprietor, or a conductor of or an operator in any
23 place in which a dental service or dental operation is performed intraorally;
- 24 (2)] Perform or attempt to perform any intraoral dental service or intraoral
25 dental operation;

26 **[(3)] (2)** Diagnose, treat, or attempt to diagnose or treat any disease,
27 injury, malocclusion, or malposition of a tooth, gum, or jaw, or structures associated with a
28 tooth, gum, or jaw if the service, operation, or procedure is included in the curricula of an
29 accredited dental school or in an approved dental residency program of an accredited

1 hospital or teaching institution;

2 **[(4)] (3)** Perform or offer to perform dental laboratory work;

3 **[(5)] (4)** Place or adjust a dental appliance in a human mouth; or

4 **[(6)] (5)** Administer anesthesia for the purposes of dentistry and not as a
5 medical specialty.

6 **[(m)] (N)** Except as provided in § 4–308(f)(2) of this title, “supervision” means
7 supervision of a dental hygienist by a dentist, where the dentist may or may not be present
8 when the dental hygienist performs the dental hygiene procedures but is available on the
9 premises.

10 **[(n)] (O)** “Temporary dental clinic permit” means, unless the context requires
11 otherwise, a temporary permit issued by the Board to a bona fide charitable organization
12 to provide dental services to the poor, elderly, or disabled at a dental clinic.

13 **[(o)] (P)** “Third party” means any person who collects premiums, assumes
14 financial risks, pays claims, or provides administrative services relating to any:

15 (1) Insurance policy;

16 (2) Insurance contract;

17 (3) Health prepayment contract;

18 (4) Health care plan; or

19 (5) Nonprofit health service plan contract.

20 4–301.

21 (a) (1) Except as otherwise provided in this title, an individual shall be
22 licensed by the Board to practice dentistry before the individual may practice dentistry on
23 a human being in this State.

24 (2) Except as otherwise provided in this title, an individual shall be
25 licensed by the Board to practice dental hygiene before the individual may practice dental
26 hygiene on a human being in this State.

27 (b) This section does not apply to:

28 (1) A student of dentistry while engaged in an educational program at an
29 approved school of dentistry;

1 (2) A student of dental hygiene while engaged in an approved educational
2 program in dental hygiene;

3 (3) A dentist while performing official duties in a federal dental service;

4 (4) An individual licensed to practice dentistry in any other state or a
5 foreign country, while the individual:

6 (i) Makes a clinical demonstration before a dental society, dental
7 convention, association of dentists, or dental college; or

8 (ii) Performs professional duties on a specific case for which the
9 individual is called into this State;

10 (5) A dental assistant, if the dental assistant:

11 (i) Subject to the rules and regulations adopted by the Board,
12 performs only procedures that do not require the professional skills of a licensed dentist;
13 and

14 (ii) Performs intraoral tasks only under the direct supervision of a
15 licensed dentist who personally is present in the office area where the tasks are performed;
16 or

17 (6) An heir of a deceased licensed dentist or a personal representative of a
18 deceased licensed dentist, if:

19 (i) The deceased licensed dentist was the owner of the dental
20 practice;

21 (ii) The deceased licensed dentist did not provide for the disposition
22 of the dental practice; and

23 (iii) The heir or the personal representative of the deceased licensed
24 dentist serves as the owner of the dental practice, regardless of whether the heir or the
25 personal representative is licensed to practice dentistry, for no longer than 1 year after the
26 death of the licensed dentist unless the Board extends the time period under subsection
27 (c)(1) of this section.

28 (c) (1) On written request and good cause shown by the heir or personal
29 representative of a deceased licensed dentist, including evidence of a good faith effort to sell
30 or close the dental practice, the Board, in its sole discretion, may extend the 1-year period
31 under subsection (b)(6)(iii) of this section for up to an additional 6 months to allow the heir
32 or personal representative sufficient time to sell or otherwise dispose of the dental practice.

33 (2) During the temporary ownership of a dental practice by an heir or a
34 representative of a deceased licensed dentist under subsection (b)(6)(iii) of this section and,

1 if applicable, paragraph (1) of this subsection, all patient care shall be provided:

2 (i) By an appropriate individual who is licensed under this title; and

3 (ii) In accordance with the individual's scope of practice.

4 (3) The temporary ownership of a dental practice by an heir or a personal
5 representative of a deceased licensed dentist under this subsection may not affect the
6 exercise of the independent judgment of a licensed dentist who provides care to patients of
7 the dental practice.

8 **(D) A PERSON MAY NOT BE CONSIDERED TO BE PRACTICING DENTISTRY OR**
9 **VIOLATING THIS TITLE BASED SOLELY ON WHETHER THE PERSON:**

10 **(1) OWNS, LEASES, OR OTHERWISE PROVIDES, OR CONTRACTS TO**
11 **OWN, LEASE, OR OTHERWISE PROVIDE, ANY ASSET USED BY A LICENSED DENTIST OR**
12 **A DENTAL PRACTICE, INCLUDING REAL PROPERTY, FURNISHINGS, EQUIPMENT,**
13 **INVENTORY, AND OTHER GOODS BUT EXCLUDING THE DENTAL RECORDS OF**
14 **PATIENTS;**

15 **(2) MAINTAINS OR CONTRACTS TO MAINTAIN DENTAL RECORDS;**

16 **(3) EMPLOYS, CONTRACTS FOR, OR OTHERWISE PROVIDES THE**
17 **SERVICES OF PERSONNEL OTHER THAN A LICENSED DENTIST;**

18 **(4) MANAGES OR CONDUCTS, OR CONTRACTS TO MANAGE OR**
19 **CONDUCT, A DENTAL PRACTICE, INCLUDING PERFORMING ADMINISTRATIVE**
20 **FUNCTIONS, AND ANY OTHER RELATED FUNCTIONS OF A DENTAL PRACTICE THAT**
21 **DO NOT INCLUDE THE PRACTICE OF DENTISTRY;**

22 **(5) PROVIDES CONSULTING SERVICES, FINANCIAL SERVICES, OR ANY**
23 **OTHER SERVICES OR ACTIVITIES RELATING TO THE PRODUCTIVITY, EFFICIENCY,**
24 **AND COST MANAGEMENT OF A DENTAL PRACTICE THAT DO NOT INCLUDE THE**
25 **PRACTICE OF DENTISTRY; OR**

26 **(6) RECEIVES FEES FOR GOODS OR SERVICES SPECIFIED IN ITEMS (1)**
27 **THROUGH (5) OF THIS SUBSECTION TO A DENTIST OR A DENTAL PRACTICE THAT ARE**
28 **AGREED TO BY THE DENTIST, INCLUDING FEES THAT ARE CALCULATED BASED ON A**
29 **PERCENTAGE OF THE REVENUES OR PROFITS OF A DENTIST OR A DENTAL PRACTICE.**

30 **(E) (1) THIS TITLE DOES NOT PROHIBIT A DENTIST OR A DENTAL**
31 **PRACTICE FROM CONTRACTING TO RECEIVE OR RECEIVING SERVICES OR**
32 **BENEFITING FROM ACTS SPECIFIED IN SUBSECTION (D) OF THIS SECTION.**

1 **(2) THE BOARD MAY NOT PROHIBIT:**

2 **(I) A PERSON FROM CONTRACTING TO PROVIDE OR ENGAGING**
3 **IN A SERVICE OR AN ACT SPECIFIED IN SUBSECTION (D) OF THIS SECTION; OR**

4 **(II) A DENTIST OR DENTAL PRACTICE FROM CONTRACTING TO**
5 **RECEIVE OR RECEIVING SERVICES OR BENEFITING FROM ACTS SPECIFIED IN**
6 **SUBSECTION (D) OF THIS SECTION.**

7 4-601.

8 (a) Except as otherwise provided in this title, a person may not practice, attempt
9 to practice, or offer to practice dentistry or dental hygiene on a human being in this State
10 unless licensed by the Board.

11 (b) A person may not aid or abet **THE** unauthorized practice of **DENTISTRY OR**
12 dental hygiene in this State.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2019.