

# HOUSE BILL 738

J2, J1

9lr2303

---

By: ~~Delegate Kipke~~ **Delegates Kipke, Bagnall, Barron, Bhandari, Carr, Charles, Chisholm, Cullison, Hill, Johnson, Kelly, Kerr, Krebs, R. Lewis, Metzgar, Morgan, Pena-Melnyk, Pendergrass, Rosenberg, Saab, Sample-Hughes, and Szeliga**

Introduced and read first time: February 8, 2019

Assigned to: Health and Government Operations

---

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2019

---

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Dental Hygienist – Scope of Practice – ~~Authority to Practice~~ Practice Settings**  
3 **Under General Supervision of ~~Licensed Dentist~~**

4 FOR the purpose of altering a certain provision of law to provide that a general license to  
5 practice dental hygiene authorizes the licensee to practice dental hygiene under the  
6 general supervision of a licensed dentist in certain facilities, rather than only in a  
7 long-term care facility; altering the requirements, including the time period of active  
8 clinical experience, that a dental hygienist is required to meet before being  
9 authorized to practice dental hygiene under the general supervision of a licensed  
10 dentist in certain facilities; altering the requirements that must be met by a dental  
11 hygienist who is practicing under the general supervision of a licensed dentist in  
12 certain facilities and performing a certain dental hygiene service; making  
13 conforming changes; defining ~~a certain term~~ certain terms; repealing a certain  
14 definition; and generally relating to the authority of dental hygienists to practice  
15 under the general supervision of licensed dentists.

16 BY repealing and reenacting, with amendments,  
17 Article – Health Occupations  
18 Section 4-308(m)  
19 Annotated Code of Maryland  
20 (2014 Replacement Volume and 2018 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**

4–308.

(m) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Assisted living program” has the meaning stated in § 19–1801 of the Health – General Article.

**(III) “FACILITY” MEANS:**

1. A NURSING HOME;

2. AN ASSISTED LIVING PROGRAM;

3. MEDICAL OFFICES; OR

4. A GROUP HOME OR ADULT DAY CARE CENTER; ~~OR.~~

~~5. A FACILITY THAT IS OPERATED BY:~~

~~A. A FEDERAL, STATE, OR MUNICIPAL GOVERNMENT AGENCY; OR~~

~~B. A BONA FIDE CHARITABLE ORGANIZATION.~~

[(iii)] (IV) “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.

[(iv)] “Long-term care facility” means:

1. A nursing home; or

2. An assisted living program.]

(v) “GROUP HOME OR ADULT DAY CARE CENTER” MEANS A GROUP HOME OR ADULT DAY CARE CENTER WHERE THE PATIENT’S MEDICAL RECORDS ARE MADE AVAILABLE TO THE DENTIST AND THE DENTAL HYGIENIST AND THAT OBTAINS THE CONSENT OF THE PATIENT OR THE PATIENT’S GUARDIAN FOR DENTAL HYGIENE SERVICES TO BE PROVIDED UNDER THIS SUBSECTION.

1                    **(VI) “MEDICAL OFFICE” MEANS AN OFFICE OF A LICENSED**  
 2 **PHYSICIAN WHO PROVIDES PRENATAL OR PRIMARY MEDICAL CARE AND IN WHICH**  
 3 **THE PHYSICIAN, SUPERVISING DENTIST, AND DENTAL HYGIENIST COMMUNICATE IN**  
 4 **PROVIDING DENTAL HYGIENE SERVICES TO A PATIENT.**

5                    **(VII)** “Nursing home” has the meaning stated in § 19–1401 of the  
 6 Health – General Article.

7                    (2)    (i)    While it is effective, a general license to practice dental hygiene  
 8 issued under this title authorizes the licensee to practice dental hygiene under the general  
 9 supervision of a licensed dentist in a [long–term care] facility in accordance with this  
 10 subsection.

11                    (ii)    This subsection may not be construed to:

12                    1.    Authorize a dental hygienist to practice dental hygiene  
 13 independent of a supervising dentist;

14                    2.    Prohibit a dentist from being available for personal  
 15 consultation or on the premises where a dental hygienist is practicing;

16                    3.    Prohibit a dental hygienist, without the supervision of a  
 17 dentist, from performing a preliminary dental examination with subsequent referral to a  
 18 dentist; or

19                    4.    Require a waiver under subsection (f) of this section.

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

23                    (i)    Hold an active license to practice dental hygiene in the State;

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

26                    (iii)    Have at least ~~2 years~~ **3,000 HOURS** of active clinical practice in  
 27 direct patient care; and

28                    (iv)    Ensure that the [long–term care] facility where the dental  
 29 hygienist will practice under general supervision has:

30                    1.    A written medical emergency plan in place;

31                    2.    ~~[Adequate]~~ ~~UNLESS THE DENTAL HYGIENIST IS~~  
 32 ~~PROVIDING THE EQUIPMENT, ADEQUATE~~ equipment, including portable equipment and

1 appropriate armamentarium, available for the appropriate delivery of dental hygiene  
 2 services, UNLESS THE DENTAL HYGIENIST PROVIDES THE EQUIPMENT DESCRIBED;  
 3 and

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

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

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

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

12 (iii) Have at least ~~2 years~~ 3,000 HOURS of active clinical practice in  
 13 direct patient care; AND

14 (IV) HAVE A WRITTEN AGREEMENT BETWEEN THE SUPERVISING  
 15 DENTIST AND THE DENTAL HYGIENIST THAT:

16 1. CLEARLY SETS FORTH THE TERMS AND CONDITIONS  
 17 UNDER WHICH THE DENTAL HYGIENIST MAY PRACTICE, INCLUDING A STATEMENT  
 18 THAT THE DENTAL HYGIENIST MAY PROVIDE DENTAL HYGIENE SERVICES WITHOUT  
 19 THE SUPERVISING DENTIST ON THE PREMISES UNLESS THIS TITLE REQUIRES THAT  
 20 A LICENSED DENTIST BE ON THE PREMISES IN ORDER FOR THE SERVICE TO BE  
 21 PERFORMED BY THE DENTAL HYGIENIST;

22 2. INDICATES THE POPULATION TO BE SERVED;

23 3. STATES THE METHOD BY WHICH THE SERVICES ARE  
 24 TO BE PROVIDED AND THE PROCEDURES TO BE USED BY THE SUPERVISING DENTIST  
 25 TO OVERSEE AND DIRECT THE DENTAL HYGIENIST; AND

26 4. STATES THE NAMES AND LICENSE NUMBERS OF THE  
 27 DENTIST AND DENTAL HYGIENIST PERFORMING SERVICES UNDER THE WRITTEN  
 28 AGREEMENT.

29 (5) A dental hygienist practicing under the general supervision of a  
 30 licensed dentist in a [long-term care] facility ~~IN ACCORDANCE WITH THE~~  
 31 ~~REQUIREMENTS OF THIS SUBTITLE~~ and performing an authorized dental hygiene service  
 32 for a patient's [initial] appointment shall:

1 ~~(I) ASSESS WITH THE SUPERVISING DENTIST THE~~  
2 ~~APPROPRIATE RECALL INTERVAL BASED ON THE NEEDS OF THE PATIENT;~~

3 ~~(II) LIMIT SERVICES TO THE PREVENTIVE SERVICES~~  
4 ~~AUTHORIZED UNDER THE CURRENT SCOPE OF PRACTICE OF A LICENSED DENTAL~~  
5 ~~HYGIENIST THAT DO NOT REQUIRE A LICENSED DENTIST TO BE ON THE PREMISES~~  
6 ~~WHEN THE SERVICES ARE PERFORMED;~~

7 ~~(III) REPORT PATIENT CLINICAL FINDINGS TO THE~~  
8 ~~SUPERVISING DENTIST AND, WITH THE SUPERVISING DENTIST, DETERMINE~~  
9 ~~WHETHER THE PATIENT SHOULD BE REFERRED FOR A FOLLOW-UP EXAMINATION~~  
10 ~~OR CARE BY THE SUPERVISING DENTIST;~~

11 ~~[(i)] (IV) Have a written agreement between the supervising~~  
12 ~~dentist and the dental hygienist that [clearly];~~

13 ~~1. CLEARLY sets forth the terms and conditions under which~~  
14 ~~the dental hygienist may practice, including a statement that the dental hygienist may~~  
15 ~~provide dental hygiene services without the supervising dentist on the premises UNLESS~~  
16 ~~THIS TITLE REQUIRES THAT A LICENSED DENTIST BE ON THE PREMISES IN ORDER~~  
17 ~~FOR THE SERVICE TO BE PERFORMED BY THE DENTAL HYGIENIST;~~

18 ~~2. INDICATES THE POPULATION TO BE SERVED;~~

19 ~~3. STATES THE METHOD BY WHICH THE SERVICES ARE~~  
20 ~~TO BE PROVIDED AND THE PROCEDURES TO BE USED BY THE SUPERVISING DENTIST~~  
21 ~~TO OVERSEE AND DIRECT THE DENTAL HYGIENIST; AND~~

22 ~~4. STATES THE NAMES AND LICENSE NUMBERS OF THE~~  
23 ~~DENTIST AND DENTAL HYGIENIST PERFORMING SERVICES UNDER THE WRITTEN~~  
24 ~~AGREEMENT;~~

25 ~~[(ii)] (V) (I) Ensure that, WHILE THE DENTAL HYGIENIST IS~~  
26 ~~PERFORMING THE SERVICE, the supervising dentist is available for consultation with the~~  
27 ~~dental hygienist:~~

28 1. In person;

29 2. By telephone; or

30 3. Electronically;

31 ~~[(iii)] (II) Consult with the supervising dentist or a treating~~  
32 ~~physician before proceeding with initial treatment if there is a change in OR CONCERNS~~  
33 ~~ABOUT a recall patient's medical history;]~~

~~(VI) ENSURE THAT THE SUPERVISING DENTIST IS AVAILABLE ON A REGULARLY SCHEDULED BASIS TO:~~

~~1. PROVIDE CONSULTATION TO THE DENTAL HYGIENIST; AND~~

~~2. REVIEW PATIENT RECORDS OF THE DENTAL HYGIENIST;~~

[(iv)] ~~(VII)~~ **(III)** Assess the appropriate recall interval based on the individual needs of the patient, or as otherwise recommended by the supervising dentist; ~~AND~~

~~(\*)~~ **(IV)** Limit dental hygiene tasks and procedures PROVIDED DURING THE INITIAL APPOINTMENT to:

1. Toothbrush prophylaxis;

2. Application of fluoride;

3. Dental hygiene instruction;

**4. FULL MOUTH DEBRIDEMENT;**

~~4. 5. Assessment of~~ **ASSESSING** the patient's apparent need for further evaluation by a dentist in order to diagnose the presence of dental disease; and

~~5. 6.~~ Other duties as may be delegated, verbally or in writing, by the supervising dentist; and

[(vi)] ~~(VIII)~~ **(V)** Submit findings of ~~[the] AN~~ initial assessment to the supervising dentist for a **COLLABORATIVE** determination of future treatment **BASED ON THE PATIENT'S OVERALL HEALTH STATUS.**

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

(i) The supervising dentist [examines]:

1. **EXAMINES** the [patient and authorizes] PATIENT AND THE PATIENT'S CHARTS AND OTHER DENTAL RECORDS AFTER INITIAL TREATMENT BY THE DENTAL HYGIENIST;

1                   2.     **AUTHORIZES** in the patient's record THE SCOPE OF a  
2 prescription of specific treatment to be provided by the dental hygienist; AND

3                   3.     **EXAMINES THE PATIENT AT LEAST ONCE EVERY** ~~2~~  
4 ~~YEARS~~ **12 MONTHS, OR MORE FREQUENTLY AS DETERMINED BY THE DENTIST AND**  
5 **DENTAL HYGIENIST;**

6                   (ii)    An authorized treatment is provided by the dental hygienist as  
7 soon as possible, but no later than 7 months from the date the [patient was examined]  
8 **PATIENT AND THE PATIENT'S CHARTS AND OTHER DENTAL RECORDS WERE**  
9 **REVIEWED** by the supervising dentist; and

10                  (iii)   [Upon expiration] **ON COMPLETION** of [a] **THE TREATMENT**  
11 **prescribed treatment, FOLLOWING THE INITIAL APPOINTMENT,** the supervising dentist  
12 **[is responsible for determining] AND DETERMINES, IN CONSULTATION WITH THE**  
13 **DENTAL HYGIENIST JOINTLY DETERMINE,** future protocols for the treatment of the  
14 patient.

15                  **(7) WHILE PERFORMING DENTAL HYGIENE SERVICES FOR A PATIENT**  
16 **UNDER PARAGRAPH (6)(III) OF THIS SUBSECTION, A DENTAL HYGIENIST SHALL:**

17                  **(I) ASSESS WITH THE SUPERVISING DENTIST THE**  
18 **APPROPRIATE RECALL INTERVAL BASED ON THE NEEDS OF THE PATIENT;**

19                  **(II) LIMIT SERVICES TO THE PREVENTIVE SERVICES**  
20 **AUTHORIZED UNDER THE CURRENT SCOPE OF PRACTICE OF A LICENSED DENTAL**  
21 **HYGIENIST EXCEPT FOR THOSE SERVICES FOR WHICH THE PRESENCE OF A**  
22 **LICENSED DENTIST ON THE PREMISES IS REQUIRED UNDER THIS TITLE; AND**

23                  **(III) REPORT PATIENT CLINICAL FINDINGS TO THE**  
24 **SUPERVISING DENTIST AND, WITH THE SUPERVISING DENTIST, DETERMINE**  
25 **WHETHER THE PATIENT SHOULD BE REFERRED FOR A FOLLOW-UP EXAMINATION**  
26 **OR CARE BY THE SUPERVISING DENTIST.**

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