

Chapter 364

(House Bill 968)

AN ACT concerning

Health Occupations – Dental Assistants – Certification and Regulation

FOR the purpose of establishing a certification and regulatory scheme to certify dental assistants to perform certain intraoral procedures; specifying the intraoral procedures a dental assistant is authorized to perform without being certified by the State Board of Dental Examiners and the intraoral procedures that require certification; authorizing the Board to penalize a licensed dentist who allows a dental assistant to provide dental care in an unauthorized manner or without required instruction or supervision; and generally relating to dental assistants.

BY repealing and reenacting, without amendments,

Article – Health Occupations
Section 4–101(a)
Annotated Code of Maryland
(2021 Replacement Volume)

BY adding to

Article – Health Occupations
Section ~~4–101(b–1) and (c–1)~~ 4–101(c–1) and (g–1), 4–301.1, 4–302.1, 4–304.1,
4–305.1, 4–307.1, 4–309.1, 4–313.1, and 4–315(a)(38)
Annotated Code of Maryland
(2021 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Health Occupations
Section 4–205(a)(1)(iii), 4–301(b)(5), 4–315(a)(36) and (37), and 4–505
Annotated Code of Maryland
(2021 Replacement Volume)

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–1) “CERTIFIED DENTAL ASSISTANT” MEANS A DENTAL ASSISTANT WHO IS CERTIFIED BY THE BOARD TO PERFORM SPECIFIED INTRAORAL PROCEDURES.~~

(C-1) “DENTAL ASSISTANT” MEANS AN INDIVIDUAL WHO DIRECTLY ASSISTS A DENTIST IN THE PRACTICE OF DENTISTRY.

(G-1) “EXPANDED FUNCTION DENTAL ASSISTANT” MEANS A DENTAL ASSISTANT WHO IS CERTIFIED BY THE BOARD TO PERFORM SPECIFIC INTRAORAL PROCEDURES.

4-205.

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

(1) Adopt regulations governing:

(iii) The use of a dental assistant by a licensed dentist in performing intraoral procedures, **INCLUDING:**

1. REASONABLE POLICIES AND GUIDELINES FOR A DENTAL ASSISTANT TO ASSIST IN PERFORMING INTRAORAL PROCEDURES AUTHORIZED UNDER § 4-301(A) OF THIS TITLE; AND

2. ~~REASONABLE~~ SUBJECT TO § 4-302.1(E) OF THIS TITLE, REASONABLE EDUCATION OR TRAINING REQUIREMENTS FOR AN INDIVIDUAL TO BECOME ~~A CERTIFIED~~ AN EXPANDED FUNCTION DENTAL ASSISTANT AND PERFORM THE INTRAORAL PROCEDURES AUTHORIZED UNDER § 4-301.1(B) OF THIS TITLE;

4-301.

(b) This section does not apply to:

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

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

(ii) Performs intraoral [tasks] **PROCEDURES IN ACCORDANCE WITH § 4-301.1 OF THIS SUBTITLE** only under the direct supervision of a licensed dentist who personally is present in the office area where the [tasks] **PROCEDURES** are performed; or

4-301.1.

(A) (1) A DENTAL ASSISTANT MAY ASSIST A LICENSED DENTIST IN PROVIDING THE FOLLOWING INTRAORAL PROCEDURES UNDER THE DIRECT SUPERVISION OF A LICENSED DENTIST WITHOUT BEING CERTIFIED BY THE BOARD:

- ~~(1)~~ (I) RINSING AND ASPIRATION OF THE ORAL CAVITY;
- ~~(2)~~ (II) RETRACTION OF THE LIPS, CHEEKS, TONGUE, AND FLAPS;
- ~~(3)~~ (III) PLACEMENT AND REMOVAL OF MATERIALS FOR THE ISOLATION OF THE DENTITION, PROVIDED THAT THE MATERIAL IS NOT RETAINED BY THE DENTITION;
- ~~(4)~~ (IV) INSTRUCTING ON ORAL HYGIENE;
- ~~(5)~~ ~~PERFORMING INTRAORAL PHOTOGRAPHY OTHER THAN CONVENTIONAL OR DIGITAL X-RAY;~~
- ~~(6)~~ (V) TAKING IMPRESSIONS FOR STUDY MODELS OR DIAGNOSTIC CASTS;
- ~~(7)~~ (VI) CONSTRUCTING ATHLETIC MOUTH GUARDS ON MODELS;
- ~~(8)~~ (VII) APPLYING TOPICAL ANESTHESIA;
- ~~(9)~~ (VIII) CURING BY THE USE OF HALOGEN LIGHT;
- ~~(10)~~ (IX) CHECKING FOR LOOSE BANDS; AND
- ~~(11)~~ (X) ANY OTHER PROCEDURE THAT THE BOARD AUTHORIZES BY A RULE OR REGULATION.

(2) A DENTAL ASSISTANT MAY ASSIST IN PERFORMING INTRAORAL PHOTOGRAPHY, OTHER THAN CONVENTIONAL OR DIGITAL X-RAY, UNDER THE GENERAL SUPERVISION OF A LICENSED DENTIST WHO REVIEWS THE PHOTOGRAPHY AND AUTHORIZES THE TREATMENT PLAN WITHOUT BEING CERTIFIED BY THE BOARD.

(B) (1) EXCEPT FOR AN INDIVIDUAL LICENSED AS A DENTIST OR A DENTAL HYGIENIST UNDER THIS TITLE, AN INDIVIDUAL SHALL BE CERTIFIED BY THE BOARD AS ~~A CERTIFIED~~ AN EXPANDED FUNCTION DENTAL ASSISTANT AUTHORIZED TO PERFORM AT LEAST ONE OF THE FOLLOWING INTRAORAL PROCEDURES BEFORE THE INDIVIDUAL MAY PERFORM THE INTRAORAL PROCEDURE IN THE STATE:

(I) ASSISTING IN ORTHODONTIC PROCEDURES AUTHORIZED BY THE BOARD IN REGULATION;

(II) PLACING DENTAL SEALANTS;

~~(III) AS PART OF DENTAL PROPHYLAXIS OR BEFORE THE PERFORMANCE OF ESTHETIC AND CEMENTATION PROCEDURES, CORONAL POLISHING SOLELY FOR STAIN AND BIOFILM REMOVAL;~~

(III) CORONAL POLISHING ONLY TO REMOVE STAIN OR BIOFILM:

1. IN CONNECTION WITH A DENTAL PROPHYLAXIS:

A. AS DETERMINED NECESSARY AND APPROPRIATE, SECONDARY TO THE MORE COMPLEX DENTAL PROCEDURES OF A DENTAL PROPHYLAXIS, SUCH AS REMOVAL OF HARD AND SOFT DEPOSITS AND STAIN OF THE TOOTH CROWN, ROOT SURFACES, AND PERIODONTAL POCKET; AND

B. IF APPLICABLE, IN CONSULTATION WITH THE TREATING DENTAL HYGIENIST; OR

2. BEFORE A DENTIST PERFORMS AN ESTHETIC OR CEMENTATION PROCEDURE;

(IV) APPLYING SILVER DIAMINE FLUORIDE;

(V) MONITORING NITROUS OXIDE BY OBSERVING A PATIENT:

1. DURING THE FLOW OF NITROUS OXIDE;

2. DURING THE REDUCTION OF THE FLOW OF NITROUS OXIDE;

3. DURING THE SHUTTING OFF OF EQUIPMENT CONTROLLING THE FLOW OF NITROUS OXIDE; AND

4. AT ALL TIMES IN BETWEEN THE START OF THE FLOW OF NITROUS OXIDE UNTIL THE NITROUS OXIDE HAS BEEN TERMINATED AND THE PATIENT HAS FULLY AWOKEN AND IS COHERENT; OR

(VI) ADDITIONAL INTRAORAL PROCEDURES AUTHORIZED BY THE BOARD IN REGULATIONS.

(2) A DENTAL ASSISTANT WHO IS CERTIFIED BY THE BOARD TO PERFORM AN INTRAORAL PROCEDURE LISTED IN PARAGRAPH (1) OF THIS SUBSECTION MAY PERFORM THE INTRAORAL PROCEDURE LISTED IN PARAGRAPH (1) OF THIS SUBSECTION IF A LICENSED DENTIST:

(I) GIVES THE CERTIFIED DENTAL ASSISTANT SPECIFIC INSTRUCTIONS TO PERFORM THE INTRAORAL PROCEDURE; AND

(II) DIRECTLY SUPERVISES THE CERTIFIED DENTAL ASSISTANT PERFORMING THE INTRAORAL PROCEDURE.

4-302.1.

(A) TO QUALIFY FOR A CERTIFICATE TO BE ~~A CERTIFIED~~ AN EXPANDED FUNCTION DENTAL ASSISTANT, AN APPLICANT SHALL BE AN INDIVIDUAL WHO MEETS THE REQUIREMENTS OF THIS SECTION.

(B) THE APPLICANT MUST BE OF GOOD MORAL CHARACTER.

(C) THE APPLICANT MUST BE AT LEAST ~~17~~ 18 YEARS OLD.

(D) THE APPLICANT MUST:

(1) BE A HIGH SCHOOL GRADUATE OR HAVE ATTAINED A HIGH SCHOOL EQUIVALENCY;

(2) HAVE SUCCESSFULLY COMPLETED A COURSE OF STUDY APPROVED, SUBJECT TO SUBSECTION (E) OF THIS SECTION, BY THE BOARD RELATED TO THE INTRAORAL PROCEDURE FOR WHICH THE APPLICANT HAS APPLIED FOR A CERTIFICATE;

(3) HAVE THE APPROPRIATE CERTIFICATION FROM THE DENTAL ASSISTING NATIONAL BOARD;

(4) HAVE PASSED ANY EXAMINATION PROVIDED FOR IN A REGULATION ADOPTED BY THE BOARD; AND

(5) SUBMIT TO A STATE CRIMINAL HISTORY RECORDS CHECK.

(E) THE BOARD MAY NOT APPROVE A COURSE OF STUDY UNDER SUBSECTION (D)(2) OF THIS SECTION UNLESS THE COURSE OF STUDY IS PART OF:

(1) A U.S. DEPARTMENT OF LABOR JOB CORPS DENTAL ASSISTING PROGRAM;

(2) A DENTAL ASSISTING PROGRAM LOCATED WITHIN AN INSTITUTION OF POSTSECONDARY EDUCATION THAT IS ACCREDITED BY AN ACCREDITING INSTITUTION RECOGNIZED BY THE U.S. DEPARTMENT OF EDUCATION;

(3) A DENTAL ASSISTING PROGRAM THAT IS LOCATED WITHIN A HIGH SCHOOL AND IS RECOGNIZED BY AN ACCREDITING BODY RECOGNIZED BY THE U.S. DEPARTMENT OF EDUCATION OR THE HIGH SCHOOL ACCREDITING BODY OF A STATE; OR

(4) A DENTAL ASSISTING PROGRAM THAT IS ACCREDITED BY THE COUNCIL ON DENTAL ACCREDITATION, OR A SUCCESSOR ORGANIZATION.

4-304.1.

TO APPLY FOR A CERTIFICATE TO BE ~~A CERTIFIED~~ AN EXPANDED FUNCTION DENTAL ASSISTANT, AN APPLICANT SHALL:

(1) SUBMIT AN APPLICATION TO THE BOARD IN A MANNER THAT THE BOARD REQUIRES; AND

(2) PAY TO THE BOARD AN APPLICATION FEE SET BY THE BOARD.

4-305.1.

(A) AN APPLICANT WHO OTHERWISE QUALIFIES FOR A CERTIFICATE TO BE ~~A CERTIFIED~~ AN EXPANDED FUNCTION DENTAL ASSISTANT IS ENTITLED TO BE EXAMINED AS PROVIDED FOR IN THIS SECTION.

(B) THE BOARD SHALL NOTIFY EACH QUALIFIED APPLICANT OF THE TIME AND PLACE OF THE EXAMINATION.

(C) THE BOARD SHALL DETERMINE THE SUBJECTS, SCOPE, FORM, AND PASSING SCORE FOR EXAMINATIONS GIVEN UNDER THIS SECTION.

(D) AN APPLICANT SHALL PAY TO THE BOARD AN EXAMINATION FEE SET BY THE BOARD IN AN AMOUNT THAT DOES NOT EXCEED THE COSTS OF ADMINISTERING THE EXAMINATION.

4-307.1.

(A) THE BOARD SHALL ISSUE AN APPROPRIATE CERTIFICATE TO ANY APPLICANT WHO MEETS THE REQUIREMENTS OF THIS TITLE AND REGULATIONS ADOPTED BY THE BOARD FOR THAT CERTIFICATE.

(B) THE BOARD SHALL INCLUDE ON EACH CERTIFICATE THAT THE BOARD ISSUES:

(1) THE NAME OF THE CERTIFIED INDIVIDUAL;

(2) THE DATE THE CERTIFICATE WAS ISSUED;

(3) THE INTRAORAL PROCEDURES THAT THE CERTIFIED DENTAL ASSISTANT IS QUALIFIED TO PERFORM;

(4) A SERIAL NUMBER;

(5) THE SIGNATURES OF THE PRESIDENT AND SECRETARY OF THE BOARD; AND

(6) THE SEAL OF THE BOARD.

(C) THE BOARD SHALL ISSUE A CERTIFICATE TO REPLACE A LOST OR DESTROYED CERTIFICATE IF THE CERTIFIED DENTAL ASSISTANT PAYS A FEE SET BY THE BOARD THAT APPROXIMATES THE ACTUAL COST OF REPLACING THE CERTIFICATE.

(D) AN INDIVIDUAL MAY BE SIMULTANEOUSLY CERTIFIED AS A DENTAL RADIATION TECHNOLOGIST UNDER § 4-505 OF THIS TITLE AND AS ~~A CERTIFIED~~ AN EXPANDED FUNCTION DENTAL ASSISTANT.

4-309.1.

(A) A CERTIFICATE EXPIRES ON THE DATE SET BY THE BOARD, UNLESS THE CERTIFICATE IS RENEWED FOR AN ADDITIONAL TERM AS PROVIDED FOR BY THE BOARD.

(B) AT LEAST 1 MONTH BEFORE A CERTIFICATE EXPIRES, THE BOARD SHALL SEND TO THE CERTIFIED DENTAL ASSISTANT, BY ELECTRONIC MEANS AND FIRST-CLASS MAIL TO THE LAST KNOWN ELECTRONIC OR PHYSICAL ADDRESS OF THE DENTAL ASSISTANT, A RENEWAL NOTICE THAT STATES THE:

(1) DATE ON WHICH THE CURRENT CERTIFICATE EXPIRES;

(2) DATE BY WHICH THE RENEWAL APPLICATION MUST BE RECEIVED BY THE BOARD FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE CERTIFICATE EXPIRES; AND

(3) AMOUNT OF THE RENEWAL FEE.

4-313.1.

EACH HOLDER OF A CERTIFICATE TO BE ~~A CERTIFIED~~ AN EXPANDED FUNCTION DENTAL ASSISTANT SHALL KEEP THE CERTIFICATE, AND ANY CURRENT RENEWAL, IN THE OFFICE WHERE THE DENTAL ASSISTANT IS EMPLOYED.

4-315.

(a) Subject to the hearing provisions of § 4-318 of this subtitle, the Board may deny a general license to practice dentistry, a limited license to practice dentistry, or a teacher's license to practice dentistry to any applicant, reprimand any licensed dentist, place any licensed dentist on probation, or suspend or revoke the license of any licensed dentist, if the applicant or licensee:

(36) Fails to comply with the requirements of the Prescription Drug Monitoring Program in Title 21, Subtitle 2A of the Health – General Article; [or]

(37) Accepts or tenders rebates or splits fees in violation of § 4-103(c) of this subtitle; OR

(38) ALLOWS A DENTAL ASSISTANT TO ASSIST IN THE PRACTICE OF DENTISTRY:

(I) IN AN UNAUTHORIZED MANNER IN VIOLATION OF THIS TITLE OR REGULATIONS ADOPTED BY THE BOARD;

(II) WITHOUT SPECIFICALLY INSTRUCTING THE CERTIFIED DENTAL ASSISTANT TO PERFORM AN INTRAORAL PROCEDURE THAT THE CERTIFIED DENTAL ASSISTANT IS AUTHORIZED TO PERFORM; OR

(III) FAILING TO PROVIDE DIRECT SUPERVISION OF A DENTAL ASSISTANT.

4-505.

(a) The Board of Dental Examiners shall:

(1) Define, for the purpose of this section, the terms “dental radiation technologist” and “practice dental radiation technology”;

(2) Adopt rules and regulations concerning qualifications, training, certification, monitoring of, and enforcement requirements for a dental radiation technologist; and

(3) Provide for a requirement to ensure competency in new safety and technological advances.

(b) The qualifications required of applicants for Board certification as a dental radiation technologist shall include requirements established by:

(1) The American Dental Association; or

(2) Any applicable federal standards for training and certification.

(c) After July 1, 1988, an individual must be certified by the Board as a dental radiation technologist before a licensed dentist may employ the individual to practice dental radiation technology.

(d) After July 1, 1988, an individual may not practice dental radiation technology unless certified by the Board.

(e) At least 1 month before a certificate expires, the Board shall send to each certificate holder, by electronic means or first-class mail to the last known electronic or physical address of the certificate holder, a renewal notice that states:

(1) The date on which the current certificate expires;

(2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the certificate expires; and

(3) The amount of the renewal fee.

(F) AN INDIVIDUAL MAY BE SIMULTANEOUSLY CERTIFIED AS A DENTAL RADIATION TECHNOLOGIST UNDER THIS SECTION AND AS A CERTIFIED AN EXPANDED FUNCTION DENTAL ASSISTANT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.

Approved by the Governor, May 16, 2022.