

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
Revised

House Bill 1302

(Delegate Kipke, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

Health Occupations - Dental Hygienists - Practice in Long-Term Care Facilities

This bill authorizes a licensed dental hygienist to practice in a long-term care facility under the general supervision of a dentist.

The bill takes effect July 1, 2010, and terminates June 30, 2014.

Fiscal Summary

State Effect: The bill's requirements can be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary: A "long-term care facility" is considered a nursing home or an assisted living program.

A dental hygienist and a supervising dentist must each hold an active license as well as a current certificate evidencing health provider level C proficiency, or its equivalent, in cardiopulmonary resuscitation (CPR), and have at least two years of active clinical practice in direct patient care. Prior to providing services in a long-term care facility, a dental hygienist must ensure that the long-term care facility has a written medical emergency plan and specified equipment for the appropriate delivery of dental hygiene services.

To provide services at a long-term care facility, a dental hygienist must have a written agreement with the supervising dentist that 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 facility's premises. In addition, a dental hygienist must:

- ensure that the supervising dentist is available for consultation with the dental hygienist in person, by telephone, or electronically;
- consult with the supervising dentist or a treating physician before proceeding with initial treatment if there is a change in a recall patient's medical history;
- assess the appropriate recall interval based on the patient's needs or as recommended by the supervising dentist;
- limit dental hygiene tasks and procedures to toothbrush prophylaxis, application of fluoride, dental hygiene instruction, assessment of the patient's apparent need for further evaluation by a dentist in order to diagnose the presence of dental disease, and other duties as delegated verbally or in writing by the supervising dentist; and
- submit findings of the initial assessment to the supervising dentist for a determination of future treatment.

A dental hygienist may perform subsequent authorized dental hygiene services without the supervising dentist on the premises if the supervising dentist examines the patient and authorizes a prescription of specific treatment, services are provided within seven months of the examination performed by the supervising dentist, and upon the expiration of a prescribed treatment, the supervising dentist is responsible for future treatment of the patient.

By December 31, 2013, the Department of Health and Mental Hygiene must evaluate the bill's use and effectiveness and report its findings to designated committees of the General Assembly.

The bill may not be construed to:

- authorize a dental hygienist to practice independent of a supervising dentist;
- prohibit a dentist from being available for personal consultation or on the premises where a dental hygienist is practicing;
- prohibit a dental hygienist, without the supervision of a dentist, from performing a preliminary dental examination with subsequent referral to a dentist; or
- require a waiver of a general license to practice dental hygiene.

Current Law: Historically, a dental hygienist has practiced under the indirect supervision of a dentist, which means the dentist authorizes the procedure and remains in the office while it is being performed. To more efficiently serve patients and promote proper preventive oral health care, dentistry practices in Maryland have trended toward permitting hygienists to work under less restrictive supervisory requirements.

Chapters 164 and 165 of 2007 allow a dental hygienist who is authorized to practice under a licensed dentist's general supervision in a government-owned and -operated facility or public health department to apply fluoride, mouth rinse, or varnish. Chapter 316 of 2008 authorizes a dental hygienist who is a permanent or contractual employee of the federal government, a State or local government, or a federally qualified health center, and working in specified facilities to apply fluoride and sealants under the general supervision of a licensed dentist. Chapter 316 also expands the types of facilities in which a dental hygienist may practice under general supervision, specifies that these facilities are not required to obtain a general supervision waiver, and repeals the requirement that a dentist or physician evaluate or diagnose a patient before a dental hygienist can treat the patient in these facilities.

Chapter 566 of 2009 expands the scope of practice for a dental hygienist by adding two functions that a dental hygienist can perform: manual curettage in conjunction with scaling and root planning, and administering local anesthesia.

A private dental office in which a dental hygienist is authorized to practice under the general supervision of a licensed dentist has to ensure that 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 can practice. Chapter 566 also allows more flexibility in unsupervised clinical hours that a dental hygienist can work in a private dental office by making the 60% threshold previously applicable to a given calendar week applicable to a three-month period instead.

In addition, a licensed dental hygienist is authorized to perform a preliminary dental exam; perform a complete prophylaxis, including the removal of any deposit, accretion, or stain from the tooth surface or restoration; polish a tooth or restoration; chart cavities, restorations, missing teeth, periodontal conditions, and other features observed; apply a medicinal agent to a tooth for prophylactic purpose; take a dental X-ray; or perform any other intraoral function authorized by the State Board of Dental Examiners.

Regulations require a dentist and a dental hygienist to maintain CPR certification from either the American Heart Association's basic life support for health care providers, the American Red Cross's CPR for the professional rescuer, or an equivalent program approved by the board.

Background: In a 2009 sunset evaluation of the board, the Department of Legislative Services noted there is some concern in the dental hygiene community that the State's general supervision laws are still too restrictive and limit a hygienist's ability to provide greater access to dental care. According to the American Dental Hygienists' Association, 29 states allow for some form of "direct access," which means that a dental hygienist may initiate treatment based on his or her assessment of a patient's needs without the specific authorization of a dentist and may treat the patient without the presence of a dentist. However, the level of direct access varies a great deal from state to state. For example, direct access in Idaho is limited to a hygienist providing services in hospitals, long-term care facilities, public health facilities, health or migrant clinics, or other board-approved settings if a dentist affiliated with the setting authorizes services. However, in Colorado, a hygienist may provide oral prophylaxis and preventive therapeutic services unsupervised in any setting and may own a dental hygiene practice.

In fiscal 2009, there were 3,134 licensed dental hygienists in the State.

Small Business Effect: Although it is unknown how many long-term care facilities are considered small businesses, allowing a dental hygienist to practice without the physical presence of a supervising dentist will free up a supervising dentist's time, allowing the dentist to focus more on other patients.

Additional Information

Prior Introductions: None.

Cross File: SB 719 (Senator Middleton) - Education, Health, and Environmental Affairs.

Information Source(s): American Dental Hygienist's Association, Department of Health and Mental Hygiene, Department of Legislative Services

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