

HOUSE BILL 70

J2
HB 1584/17 – HRU

(PRE-FILED)

8lr1056

By: **Delegate Angel**

Requested: November 2, 2017

Introduced and read first time: January 10, 2018

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Dentistry Act – Scope of Practice and Penalties for Violations**

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 certain services or
9 engaging in certain acts, or a dentist or a dental practice from contracting to receive
10 or receiving certain services or benefiting from certain acts; prohibiting a person
11 from aiding or abetting the unauthorized practice of dentistry in the State; altering
12 certain penalties for certain acts related to the unauthorized practice of dentistry;
13 altering certain penalties for violating certain provisions of law related to dental
14 laboratory work or advertising a dental appliance; providing for the application of
15 certain provisions of this Act; repealing certain provisions of law that specify certain
16 places of imprisonment; defining a certain term; altering a certain definition; and
17 generally relating to the scope of practice of dentistry and penalties for violations of
18 the Maryland Dentistry Act.

19 BY repealing and reenacting, with amendments,
20 Article – Health Occupations
21 Section 4–101, 4–301, 4–601, and 4–606
22 Annotated Code of Maryland
23 (2014 Replacement Volume and 2017 Supplement)

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

26 **Article – Health Occupations**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 4–101.

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

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

4 (c) “Dental appliance” means any:

5 (1) Oral prosthesis;

6 (2) Orthodontic appliance;

7 (3) Regulatory appliance;

8 (4) Supportive appliance; or

9 (5) Other intraoral appliance or restoration.

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

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

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

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

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

18 **(2) FORMED UNDER THE LAWS OF THE STATE FOR THE PURPOSE OF**
19 **RENDERING PROFESSIONAL SERVICES.**

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

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

23 (i) Practice dentistry; or

24 (ii) Practice dental hygiene.

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

26 (i) A general license to practice dentistry;

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

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

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

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

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

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

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- 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 (v) A volunteer dentist's license to practice dentistry; or
- 6 (vi) A temporary volunteer dentist's license to practice dentistry.

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

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

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

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

1 ~~[(3)]~~ **(2)** Diagnose, treat, or attempt to diagnose or treat any disease,
2 injury, malocclusion, or malposition of a tooth, gum, or jaw, or structures associated with a
3 tooth, gum, or jaw if the service, operation, or procedure is included in the curricula of an
4 accredited dental school or in an approved dental residency program of an accredited
5 hospital or teaching institution;

6 ~~[(4)]~~ **(3)** Perform or offer to perform dental laboratory work;

7 ~~[(5)]~~ **(4)** Place or adjust a dental appliance in a human mouth; or

8 ~~[(6)]~~ **(5)** Administer anesthesia for the purposes of dentistry and not as a
9 medical specialty.

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

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

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

19 (1) Insurance policy;

20 (2) Insurance contract;

21 (3) Health prepayment contract;

22 (4) Health care plan; or

23 (5) Nonprofit health service plan contract.

24 4–301.

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

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

31 (b) This section does not apply to:

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

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

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

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

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

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

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

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

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

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

21 (i) The deceased licensed dentist was the owner of the dental
22 practice;

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

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

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

1 or personal representative sufficient time to sell or otherwise dispose of the dental practice.

2 (2) During the temporary ownership of a dental practice by an heir or a
3 representative of a deceased licensed dentist under subsection (b)(6)(iii) of this section and,
4 if applicable, paragraph (1) of this subsection, all patient care shall be provided:

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

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

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

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

13 **(1) OWNS, LEASES, OR OTHERWISE PROVIDES, OR CONTRACTS TO**
14 **OWN, LEASE, OR OTHERWISE PROVIDE, ANY ASSET USED BY A LICENSED DENTIST OR**
15 **A DENTAL PRACTICE, INCLUDING REAL PROPERTY, FURNISHINGS, EQUIPMENT,**
16 **INVENTORY, AND OTHER GOODS;**

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

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

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

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

28 **(6) RECEIVES FEES FOR GOODS OR SERVICES PROVIDED TO A**
29 **DENTIST OR A DENTAL PRACTICE THAT ARE AGREED TO BY THE DENTIST OR THE**
30 **OWNER OF THE DENTAL PRACTICE, INCLUDING FEES THAT ARE CALCULATED BASED**
31 **ON A PERCENTAGE OF THE REVENUES OR PROFITS OF A DENTIST OR A DENTAL**
32 **PRACTICE.**

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

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

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

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

10 4–601.

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

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

16 4–606.

17 (a) **(1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
18 **SUBSECTION, A person who practices or attempts to practice dentistry without a license**
19 **in violation of § 4–601(a) of this subtitle, AIDS OR ABETS THE UNAUTHORIZED PRACTICE**
20 **OF DENTISTRY IN VIOLATION OF § 4–601(B) OF THIS SUBTITLE, or represents to the**
21 **public in violation of § 4–602 of this subtitle that the person is authorized to practice**
22 **dentistry is guilty of a misdemeanor FOR THE FIRST OFFENSE AND A FELONY FOR A**
23 **SUBSEQUENT OFFENSE and on conviction is subject to:**

24 **[(1)] (I) For a first offense, a fine not exceeding [\$2,000] \$3,000 or**
25 **imprisonment [in jail] not exceeding 6 months; or**

26 **[(2)] (II) For a subsequent offense, a fine not exceeding [\$6,000] \$8,000**
27 **or imprisonment [in the State penitentiary] not exceeding [1 year] 18 MONTHS.**

28 **(2) THIS SUBSECTION DOES NOT APPLY TO A PERSON WHO**
29 **PRACTICES OR ATTEMPTS TO PRACTICE DENTISTRY WITHOUT A LICENSE IF THE**
30 **PERSON’S LICENSE HAS BEEN EXPIRED FOR A PERIOD OF NOT MORE THAN 6**
31 **MONTHS.**

32 (b) **(1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**

1 **SUBSECTION, A person who practices or attempts to practice dental hygiene without a**
2 **license in violation of § 4–601(a) of this subtitle, aids or abets unauthorized practice of**
3 **dental hygiene in violation of § 4–601(b) of this subtitle, or represents to the public in**
4 **violation of § 4–602 of this subtitle that the person is authorized to practice dental hygiene**
5 **is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000.**

6 **(2) THIS SUBSECTION DOES NOT APPLY TO A PERSON WHO**
7 **PRACTICES OR ATTEMPTS TO PRACTICE DENTAL HYGIENE WITHOUT A LICENSE IF**
8 **THE PERSON’S LICENSE HAS BEEN EXPIRED FOR A PERIOD OF NOT MORE THAN 6**
9 **MONTHS.**

10 (c) A person who violates any provision of Subtitle 4 of this title, which relates to
11 dental laboratory work, or who advertises a dental appliance in violation of § 4–503(c) of
12 this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding
13 **[\$2,000] \$3,000 PER DAY** or imprisonment **[in jail]** not exceeding **[6] 18** months.

14 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
15 **October 1, 2018.**