

HOUSE BILL 968

J2

(2lr1510)

ENROLLED BILL

— *Health and Government Operations/Education, Health, and Environmental Affairs* —

Introduced by ~~Delegate Kipke~~ **Delegates Kipke, Bagnall, Bhandari, Chisholm, Hill, Johnson, Kaiser, Kelly, Kerr, Landis, R. Lewis, Pena-Melnyk, Pendergrass, and K. Young**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Health Occupations – Dental Assistants – Certification and Regulation**

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

10 BY repealing and reenacting, without amendments,

11 Article – Health Occupations

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.

Italics indicate opposite chamber/conference committee amendments.



1 Section 4-101(a)
 2 Annotated Code of Maryland
 3 (2021 Replacement Volume)

4 BY adding to
 5 Article – Health Occupations
 6 Section ~~4-101(b-1) and (e-1)~~ 4-101(c-1) and (g-1), 4-301.1, 4-302.1, 4-304.1,
 7 4-305.1, 4-307.1, 4-309.1, 4-313.1, and 4-315(a)(38)
 8 Annotated Code of Maryland
 9 (2021 Replacement Volume)

10 BY repealing and reenacting, with amendments,
 11 Article – Health Occupations
 12 Section 4-205(a)(1)(iii), 4-301(b)(5), 4-315(a)(36) and (37), and 4-505
 13 Annotated Code of Maryland
 14 (2021 Replacement Volume)

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

17 **Article – Health Occupations**

18 4-101.

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

20 ~~(B-1) “CERTIFIED DENTAL ASSISTANT” MEANS A DENTAL ASSISTANT WHO IS~~
 21 ~~CERTIFIED BY THE BOARD TO PERFORM SPECIFIED INTRAORAL PROCEDURES.~~

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

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

27 4-205.

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

29 (1) Adopt regulations governing:

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

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

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

9 4-301.

10 (b) This section does not apply to:

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

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

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

19 **4-301.1.**

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

23 ~~(1)~~ **(I) RINSING AND ASPIRATION OF THE ORAL CAVITY;**

24 ~~(2)~~ **(II) RETRACTION OF THE LIPS, CHEEKS, TONGUE, AND FLAPS;**

25 ~~(3)~~ **(III) PLACEMENT AND REMOVAL OF MATERIALS FOR THE**
 26 **ISOLATION OF THE DENTITION, PROVIDED THAT THE MATERIAL IS NOT RETAINED**
 27 **BY THE DENTITION;**

28 ~~(4)~~ **(IV) INSTRUCTING ON ORAL HYGIENE;**

29 ~~(5)~~ ~~PERFORMING INTRAORAL PHOTOGRAPHY OTHER THAN~~
 30 ~~CONVENTIONAL OR DIGITAL X-RAY;~~

- 1 ~~(6)~~ (V) TAKING IMPRESSIONS FOR STUDY MODELS OR DIAGNOSTIC
 2 CASTS;
- 3 ~~(7)~~ (VI) CONSTRUCTING ATHLETIC MOUTH GUARDS ON MODELS;
- 4 ~~(8)~~ (VII) APPLYING TOPICAL ANESTHESIA;
- 5 ~~(9)~~ (VIII) CURING BY THE USE OF HALOGEN LIGHT;
- 6 ~~(10)~~ (IX) CHECKING FOR LOOSE BANDS; AND
- 7 ~~(11)~~ (X) ANY OTHER PROCEDURE THAT THE BOARD AUTHORIZES BY
 8 A RULE OR REGULATION.

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

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

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

22 (II) PLACING DENTAL SEALANTS;

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

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

27 1. IN CONNECTION WITH A DENTAL PROPHYLAXIS:

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

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

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

5 (IV) APPLYING SILVER DIAMINE FLUORIDE;

6 (V) MONITORING NITROUS OXIDE BY OBSERVING A PATIENT:

7 1. DURING THE FLOW OF NITROUS OXIDE;

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

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

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

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

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

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

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

25 4-302.1.

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

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

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

2 (D) THE APPLICANT MUST:

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

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

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

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

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

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

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

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

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

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

28 4-304.1.

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

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

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

4 **4-305.1.**

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

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

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

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

15 **4-307.1.**

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

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

21 (1) **THE NAME OF THE CERTIFIED INDIVIDUAL;**

22 (2) **THE DATE THE CERTIFICATE WAS ISSUED;**

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

25 (4) **A SERIAL NUMBER;**

26 (5) **THE SIGNATURES OF THE PRESIDENT AND SECRETARY OF THE**
27 **BOARD; AND**

28 (6) **THE SEAL OF THE BOARD.**

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

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

8 **4-309.1.**

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

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

16 (1) DATE ON WHICH THE CURRENT CERTIFICATE EXPIRES;

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

20 (3) AMOUNT OF THE RENEWAL FEE.

21 **4-313.1.**

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

25 **4-315.**

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

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

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

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

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

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

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

12 4-505.

13 (a) The Board of Dental Examiners shall:

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

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

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

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

23 (1) The American Dental Association; or

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

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

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

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

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

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

7 (3) The amount of the renewal fee.

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.