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SENATE BILL NO. 712

Offered January 21, 2016

A *BILL to amend and reenact §§ 54.1-2722 and 54.1-2724 of the Code of Virginia, relating to dental hygienists; practicing under remote supervision.*

Patrons—McDougle; Delegates: Hester and Peace

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2722 and 54.1-2724 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2722. License; application; qualifications; practice of dental hygiene.

A. No person shall practice dental hygiene unless he possesses a current, active, and valid license from the Board of Dentistry. The licensee shall have the right to practice dental hygiene in the Commonwealth for the period of his license as set by the Board, under the direction of any licensed dentist.

B. An application for such license shall be made to the Board in writing and shall be accompanied by satisfactory proof that the applicant (i) is of good moral character, (ii) is a graduate of a dental hygiene program accredited by the Commission on Dental Accreditation and offered by an accredited institution of higher education, (iii) has passed the dental hygiene examination given by the Joint Commission on Dental Examinations, and (iv) has successfully completed a clinical examination acceptable to the Board.

C. The Board may grant a license to practice dental hygiene to an applicant licensed to practice in another jurisdiction if he (i) meets the requirements of subsection B; (ii) holds a current, unrestricted license to practice dental hygiene in another jurisdiction in the United States; (iii) has not committed any act that would constitute grounds for denial as set forth in § 54.1-2706; and (iv) meets other qualifications as determined in regulations promulgated by the Board.

D. A licensed dental hygienist may, under the direction or general supervision of a licensed dentist and subject to the regulations of the Board, perform services that are educational, diagnostic, therapeutic, or preventive. These services shall not include the establishment of a final diagnosis or treatment plan for a dental patient. Pursuant to subsection V of § 54.1-3408, a licensed dental hygienist may administer topical oral fluorides under an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine.

A dentist may also authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia. In its regulations, the Board of Dentistry shall establish the education and training requirements for dental hygienists to administer such controlled substances under a dentist's direction.

For the purposes of this section, "general supervision" means that a dentist has evaluated the patient and prescribed authorized services to be provided by a dental hygienist; however, the dentist need not be present in the facility while the authorized services are being provided.

For the purposes of this section, "remote supervision" means that a public health dentist has regular, periodic communications with a public health dental hygienist regarding patient treatment, but such dentist may not have done an initial examination of the patients who are to be seen and treated by the dental hygienist and may not be present with the dental hygienist when dental hygiene services are being provided.

The Board shall provide for an inactive license for those dental hygienists who hold a current, unrestricted license to practice in the Commonwealth at the time of application for an inactive license and who do not wish to practice in Virginia. The Board shall promulgate such regulations as may be necessary to carry out the provisions of this section, including requirements for remedial education to activate a license.

E. For the purposes of this subsection, "remote supervision" means that a public health dentist has regular, periodic communications with a public health dental hygienist regarding patient treatment, but such dentist may not have conducted an initial examination of the patients who are to be seen and treated by the dental hygienist and may not be present with the dental hygienist when dental hygiene services are being provided.

Notwithstanding any provision of law, a dental hygienist employed by the Virginia Department of Health who holds a license issued by the Board of Dentistry may provide educational and preventative dental care in the Commonwealth under the remote supervision of a dentist employed by the Department of Health. A dental hygienist providing such services shall practice pursuant to a protocol adopted by

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59 the Commissioner of Health on September 23, 2010, having been developed jointly by (i) the medical
60 directors of the Cumberland Plateau, Southside, and Lenowisco Health Districts; (ii) dental hygienists
61 employed by the Department of Health; (iii) the Director of the Dental Health Division of the
62 Department of Health; (iv) one representative of the Virginia Dental Association; and (v) one
63 representative of the Virginia Dental Hygienists' Association. Such protocol shall be adopted by the
64 Board as regulations.

65 ~~F.~~ A report of services provided by dental hygienists pursuant to such protocol, including their
66 impact upon the oral health of the citizens of the Commonwealth, shall be prepared and submitted by
67 the Department of Health to the Virginia Secretary of Health and Human Resources annually. Nothing
68 in this section shall be construed to authorize or establish the independent practice of dental hygiene.

69 *F. For the purposes of this subsection, "remote supervision" means that a dentist is accessible and*
70 *available for communication and consultation with a dental hygienist employed by such dentist during*
71 *the delivery of dental hygiene services but such dentist may not have conducted an initial examination of*
72 *the patients who are to be seen and treated by the dental hygienist and may not be present with the*
73 *dental hygienist when dental hygiene services are being provided.*

74 *Notwithstanding any other provision of law, a dental hygienist may practice dental hygiene under the*
75 *remote supervision of a dentist who holds an active, unrestricted license by the Board and who has a*
76 *dental office physically located in the Commonwealth. No dental hygienist shall practice under remote*
77 *supervision unless he has (i) completed a continuing education course offered by an accredited dental*
78 *education program or from a continuing education provider approved by the Board and (ii) at least two*
79 *years of clinical experience, consisting of at least 2,500 hours of clinical experience. A dental hygienist*
80 *practicing under remote supervision shall have professional liability insurance with policy limits*
81 *acceptable to the supervising dentist. A dental hygienist shall only practice under remote supervision at*
82 *a community health center, charitable safety net facility, free clinic, long-term care facility, elementary*
83 *or secondary school, Head Start program, or women, infants, and children program.*

84 *A dental hygienist practicing under remote supervision may (a) obtain a patient's treatment history*
85 *and consent, (b) perform an oral assessment, (c) perform scaling and polishing, (d) perform all*
86 *educational and preventative services, (e) take X-rays as ordered by the supervising dentist or consistent*
87 *with a standing order, (f) maintain appropriate documentation in the patient's chart, (g) administer*
88 *topical oral fluorides under an oral or written order or a standing protocol issued by a dentist or a*
89 *doctor of medicine or osteopathic medicine pursuant to subsection V of §54.1-3408, and (h) perform any*
90 *other service ordered by the supervising dentist or required by statute or Board regulation. No dental*
91 *hygienist practicing under remote supervision shall administer local anesthetic or nitrous oxide.*

92 *Prior to providing a patient dental hygiene services, a dental hygienist practicing under remote*
93 *supervision shall obtain (1) the patient's or the patient's legal representative's signature on a statement*
94 *disclosing that the delivery of dental hygiene services under remote supervision is not a substitute for*
95 *the need for regular dental examinations by a dentist and (2) verbal or written permission of any dentist*
96 *who has treated the patient in the previous 12 months and can be identified by the patient.*

97 *After conducting an initial oral assessment of a patient, a dental hygienist practicing under remote*
98 *supervision shall consult with the supervising dentist prior to providing further dental hygiene services if*
99 *such patient is medically compromised or has periodontal disease.*

100 *A dental hygienist practicing under remote supervision shall inform the supervising dentist of all*
101 *findings for a patient. A dental hygienist practicing under remote supervision may continue to treat a*
102 *patient for 90 days. After such 90-day period, the supervising dentist, absent emergent circumstances,*
103 *shall either conduct an examination of the patient or refer the patient to another dentist to conduct an*
104 *examination. The supervising dentist shall develop a treatment plan for the patient and either the*
105 *supervising dentist or the dental hygienist shall provide the treatment plan to the patient. The*
106 *supervising dentist shall review a patient's records at least once every 10 months.*

107 *Nothing in this subsection shall prevent a dental hygienist from practicing dental hygiene under*
108 *general supervision whether as an employee or as a volunteer.*

109 **§ 54.1-2724. Limitations on the employment of dental hygienists.**

110 *The Board shall determine by regulation ~~how many~~ the total number of dental hygienists, including*
111 *dental hygienists under general supervision and dental hygienists under remote supervision, who may*
112 *work at one time for a dentist. No dentist shall employ more than two dental hygienists who practice*
113 *under remote supervision at one time. The State Board of Health may employ the necessary number of*
114 *hygienists in public school dental clinics, subject to regulations of the Board.*

115 **2. That the Board of Dentistry shall promulgate regulations to implement the provisions of this act**
116 **to be effective within 280 days of its enactment.**