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HOUSE BILL NO. 1849

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions
on January 15, 2019)

(Patron Prior to Substitute—Delegate Adams, D.M.)

A *BILL to amend and reenact § 54.1-2722 of the Code of Virginia, relating to practice of dental hygiene; remote supervision; employment or supervision by the Department of Behavioral Health and Developmental Services.*

Be it enacted by the General Assembly of Virginia:

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

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

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.

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 or the Department of Behavioral Health and Developmental Services 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 or the Department of Behavioral Health and Developmental Services. A dental hygienist providing such services shall practice pursuant to a protocol adopted by the Commissioner of Health on September 23, 2010, having been protocols developed jointly by (i) the medical directors of the Cumberland Plateau, Southside, and Shenandoah Health Districts; (ii) dental hygienists employed by the Department of Health; (iii) the Director of the Dental Health Division of the Department of Health; (iv) one representative of the and the Department of Behavioral Health and Developmental Services for each agency, in consultation with

60 the Virginia Dental Association; and ~~(v) one representative of the Virginia Dental Hygienists'~~
61 Association. Such ~~protocol~~ protocols shall be adopted by the Board as regulations.

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

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

75 Notwithstanding any other provision of law, a dental hygienist may practice dental hygiene under the
76 remote supervision of a dentist who holds an active license by the Board and who has a dental practice
77 physically located in the Commonwealth. No dental hygienist shall practice under remote supervision
78 unless he has (i) completed a continuing education course designed to develop the competencies needed
79 to provide care under remote supervision offered by an accredited dental education program or from a
80 continuing education provider approved by the Board and (ii) at least two years of clinical experience,
81 consisting of at least 2,500 hours of clinical experience. A dental hygienist practicing under remote
82 supervision shall have professional liability insurance with policy limits acceptable to the supervising
83 dentist. A dental hygienist shall only practice under remote supervision at a federally qualified health
84 center; charitable safety net facility; free clinic; long-term care facility; elementary or secondary school;
85 Head Start program; *mobile dentistry program for adults with developmental disabilities operated by the*
86 *Department of Behavioral Health and Developmental Services' Office of Integrated Health;* or women,
87 infants, and children (WIC) program.

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

96 Prior to providing a patient dental hygiene services, a dental hygienist practicing under remote
97 supervision shall obtain (1) the patient's or the patient's legal representative's signature on a statement
98 disclosing that the delivery of dental hygiene services under remote supervision is not a substitute for
99 the need for regular dental examinations by a dentist and (2) verbal confirmation from the patient that
100 he does not have a dentist of record whom he is seeing regularly.

101 After conducting an initial oral assessment of a patient, a dental hygienist practicing under remote
102 supervision may provide further dental hygiene services following a written practice protocol developed
103 and provided by the supervising dentist. Such written practice protocol shall consider, at a minimum, the
104 medical complexity of the patient and the presenting signs and symptoms of oral disease.

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

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

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