

## Maryland Dental Laws Update

The following is a brief synopsis of those Maryland regulations and statutes affecting the practice of dentistry that were amended or added since the printing of the Board's *Summer 2002 Newsletter*. It is printed for the convenience of our readers. It reflects those changes made through **May 26, 2006**. *It should not be considered a substitute for the official text. Remember, you are responsible for knowing the dental laws and those laws change over time.. Stay informed!* Visit the State of Maryland, Department of State, Division of State Documents web site at [www.dsd.state.md.us](http://www.dsd.state.md.us) to review the current text of the Board's regulations, (COMAR Title 10 Subtitle 44) or visit the Maryland General Assembly's web site at <http://mlis.state.md.us> to review the Board's statutes (Health Occupations Article, Title 4). You may also link on to those sites from the Board's web site at [www.dhmv.state.md.us/dental/](http://www.dhmv.state.md.us/dental/).

### Regulations

#### **10.44.02 Licensure of Graduates of Foreign Dental Schools**

The amendments delineate the requirements for a limited license to practice dentistry for a graduate of a foreign dental school who has completed a 2 year pediatric residency program and is either a pediatric dental fellow or has completed a pediatric dental fellowship. In addition, the amendments delineate the requirements for a general license to practice dentistry for a graduate of a foreign dental school who has completed a 2 year contractual obligation to provide pediatric dental care. The chapter was amended as a result of legislative amendments to Ann. Code of Maryland, Health Occupations Article, § 4-303.1, Chapter 131, Acts of 2003. (*Amendment effective December 11, 2003*). Finally on *January 2, 2006* the chapter was amended to (1) delete the requirement that a graduate of a foreign dental school applying for a teacher's license submit to the Board a copy of a foreign dental license or translation into English of a foreign dental license; (2) delete the requirement that a graduate of a foreign dental school applying for a teacher's license or a limited license pass parts one and two of the National Board Examinations conducted by the Council of National Boards of the American Dental Association; and (3) delete the requirement that that a graduate of a foreign dental school attain a score of 220 or better for overall comprehensibility and 2.0 or better for pronunciation, grammar, and fluency on the Test of Spoken English administered by the Educational Testing Service, and instead, require that a graduate of a foreign dental school submit to the Board a letter from the appropriate source indicating that they possess sufficient comprehension and communication skills in written and spoken English to adequately treat dental patients.

#### **10.44.05 Licensure by Waiver of Practical Clinical Examination for Dentists**

The amendments delineate licensure requirements for dentists who have either actively engaged in practicing dentistry in another state for 5 years preceding application for licensure in Maryland, or who have passed a regional Board examination in accordance with Ann. Code of Maryland, Health Occupations Article, § 4-306. The regulations were amended as a result of legislative amendments to Ann. Code of Maryland, Health Occupations Article, § 4-306, Chapter 142, Acts of 2003. (*Amendment effective*

*December 22, 2003*). In addition, on *August 14, 2004* the chapter was amended to delete the requirement that a dentist, holding an active license in another state, who seeks licensure by waiver of practical clinical examination in Maryland, submit to the Maryland Board a report from the peer review or ethics committee of the other state's professional association attesting to their professional status.

#### **10.44.06 Advertising**

The amendment deletes the requirement that a dentist include in an advertisement the address where the advertised dental services are being provided because including the address in the advertisement is not required by statute. (*Amendment effective August 16, 2004*).

#### **10.44.07 Rules of Procedure for the Disciplinary Process**

The amendments codify the disciplinary process that is presently utilized by the Board from the receipt of an initial complaint through final resolution. (*Amendment effective March 1, 2004*).

#### **10.44.09 Waiver of Practical Clinical Examination for Dental Hygienists**

The amendment eliminates inconsistencies between this chapter and the Ann. Code of Maryland, Health Occupations Article, § 4-306 (b)(2)(ii)1, by requiring that to be eligible for licensure by waiver of practical clinical examination, a dental hygienist submit, along with other required documentation, evidence of 150 hours of active clinical practice for the 3 years preceding application. (*Amendment effective December 23, 2002*). In addition, on *December 22, 2003*, the chapter was amended to delineate licensure requirements for dental hygienists who have either actively engaged in practicing dental hygiene in another state for the 3 years preceding application in Maryland, or who have passed a regional board in accordance with Ann. Code of Maryland, Health Occupations Article, § 4-306.

#### **10.44.10 Renewal and Reinstatement of Licenses**

The amendment provides that for one month following the date of license expiration, (during the month of July) a dentist or a dental hygienist will pay a late fee along with the renewal fee in order to renew their license. After the one month is over, beginning on August 1, the payment of a reinstatement fee is required to be relicensed. (*Amendment effective February 17, 2003*). In addition, on *March 29, 2004*, the chapter was amended to (1) eliminate the requirement that as a condition of license renewal, a dentist or a dental hygienist have actively practiced dentistry or dental hygiene for 3 years before expiration of their license; and (2) eliminate the requirement that dentists and dental hygienists who apply for reinstatement on or after July 1 of the year in which their license has expired, pay past renewal fees in addition to the reinstatement fee. Finally, on *June 21, 2004*, the chapter was amended to delete the requirement that a dental hygienist provide proof of active practice in order to reinstate an expired teacher's license. The amendment established parity on this issue between dentists and dental hygienists with expired teacher's licenses.

#### **10.44.11 Inactive Licenses**

The amendment 1) eliminates the requirement that the Board change the license status of a general license to practice dentistry or dental hygiene from active to inactive if the holder of the license has not engaged in the active practice of dentistry or dental hygiene within 3 years preceding the expiration of their license; 2) retains the requirement that an applicant who applies for reactivation of an inactive license and who has not actively practiced within the 36 months preceding application for reactivation pass or have passed the North East Regional Board examination, but deletes the requirement that it have been passed within 5 years preceding application; and 3) codifies the current practice of the Board which permits an applicant who wishes to reactivate an inactive certification to pay the difference between the license renewal fee and the inactive status application fee. (*Amendment effective June 21, 2004*).

#### **10.44.15 Examination for Licensure**

The amendment 1) deletes outdated language regarding “Maryland Only” clinical dental and dental hygiene examinations because the Board no longer administers “Maryland only” dental and dental hygiene clinical examinations; 2) deletes the 5 year time limitation for acceptance of North East Regional Board scores; 3) deletes the “modified examination” since the Board no longer administers clinical examinations; and 4) substitutes a “regional board clinical examination” for a “bench test” since the Board no longer administers “bench tests.” (*Amendment effective July 5, 2004*).

#### **10.44.19 Dental Radiation Technologist**

The chapter was amended to require that 1) a dental radiation technologist, who seeks to renew certification, and who chooses to complete the continuing education requirement, must complete 8 classroom hours of continuing education, 4 hours of which are on the subject of radiation safety; and 2) that a dental radiation technologist who holds an expired certification, and who seeks reinstatement, complete 8 hours of continuing education from Board approved courses, 4 hours of which shall be in radiology. (*Amendment effective April 1, 2002*). In addition, on *April 12, 2004* the chapter was amended to: 1) allow the Board to issue a certification as a dental radiation technologist to an individual who holds an active license or certification to practice dental radiation technology in another state and who has engaged in practicing dental radiation technology for at least 150 hours in the 3 years preceding application; and 2) amend the requirements for the renewal of a dental radiation technologist certificate. On *September 13, 2004*, the chapter was amended to delete the requirement that an applicant for reinstatement of an expired dental radiation technologist certification, pay a renewal fee in addition to the certification fee. Finally, on *January 2, 2006* the chapter was amended to (1) provide that a dental radiation technologist must work under the direct supervision of a licensed dentist; (2) provide for the late renewal of a dental radiation technologist’s certification within 30 days of its expiration; (3) provide for sanctions if the dental radiation technologist fails to renew their certificate and continues to practice after April 1 of the year in which the renewal was due; and (4) provide that a dental radiation technologist’s certificate must be conspicuously displayed in the office in which they are engaged in practice.

#### **10.44.20 Fees**

The chapter was amended on *February 12, 2002, February 17, 2003, March 29, 2004, August 16, 2004, and January 2, 2006*. The amendments created certain fees and increased certain fees to enable the Board to meet its fiscal requirements. Certain fees were also decreased or eliminated.

#### **10.44.21 Practice of Dental Hygiene Under General Supervision in a Facility**

Ann. Code of Maryland, Health Occupations Article, § 4-308, Chapter 221, Acts of 2003 provided for general supervision of dental hygienists in a private dental office. The amendment makes clear that this chapter applies to the practice of dental hygiene in a facility, the provisions of which were not substantively affected by the legislative amendment. (*Amendment effective December 11, 2003*). In addition, the chapter was amended on March 14, 2005 to provide that a facility applies for a waiver of “on-site supervision” not “general supervision.” (Note that Chapter 10.44.27 delineates the requirements for the practice of dental hygiene under the general supervision of a dentist in a private dental office).

#### **10.44.22 Continuing Education**

The chapter was amended to 1) increase the number of continuing education hours required for renewal, reactivation, and reinstatement of dental and dental hygiene licenses from 25 to 30 hours; 2) increase the period that a licensee is required to maintain records of continuing education courses or programs from 4 to 5 years; 3) increase the number of hours permitted for self-study activities from 12 to 15 hours; 4) delineate the parameters of self-study activities; 5) amend the permitted time frame for completion of required continuing education; 6) amend continuing education audit procedures; and 7) delete the provision allowing issuance of a license to a licensee who has not completed the required continuing education. (*Amendment effective January 5, 2004*). In addition, the chapter was amended on *June 21, 2004* to permit the Board to waive any or all of the continuing education requirements for a licensee who is unable to complete the requirements due to their active military service.

#### **10.44.23 Unprofessional Conduct**

The amendment expands the scope of what constitutes unlawful sexual misconduct by a dentist, dental hygienist, or dental radiation technologist. (*Amendment effective January 19, 2004*).

#### **10.44.24 Retired Volunteer Licenses**

The amendment delineates the qualifications and application procedures for obtaining a retired volunteer license to practice dentistry or dental hygiene. (*Amendment effective December 11, 2003*). In addition, the chapter was amended on *July 18, 2005* to provide that applicants for retired volunteer dental and dental hygiene licenses who are covered by malpractice insurance from or through the institution at which they are to provide volunteer services, will be issued a site-specific license limited to that institution. Note that these licenses, issued without charge, are intended for dentists and dental hygienists who held a Maryland dental or dental hygiene license within 2 years of their application

for the retired volunteer license. Under this license the licensee must carry malpractice insurance, must donate at least 100 hours of services within the 2 year license renewal period, and may not receive compensation for their services. Chapter 10.44.26 Volunteer Licenses, deals with dentists and dental hygienists currently licensed in a state other than Maryland who wish to volunteer their services in Maryland.

#### **10.44.25 Compelling Public Purpose**

The chapter was added to permit the Board to disclose certain information to a federal, state, or local law enforcement or prosecutorial official or agency, if the information concerns possible criminal activity, a possible violation of law, or if the Board believes that an individual's conduct may pose a threat to the public health, safety or welfare.

*(Chapter effective December 24, 2001).*

#### **10.44.26 Volunteer Licenses**

The chapter delineates the qualifications and application procedures for obtaining a volunteer license to practice dentistry or dental hygiene. *(Chapter effective December 11, 2003).* In addition, the chapter was amended on *August 16, 2004* to provide that certain candidates submit an original National Board Score Card with their application. Finally, the chapter was amended on *July 18, 2005* to provide that applicants for volunteer dental and dental hygiene licenses who are covered by malpractice insurance from or through the institution at which they are to provide volunteer services, will be issued a site-specific license limited to that institution. Note that these licenses, issued without charge, are intended for dentists and dental hygienists who are licensed in a state other than Maryland. Under this license the licensee must carry malpractice insurance, must donate at least 100 hours of services within the 2 year license renewal period, and may not receive compensation for providing volunteer services under this license.

#### **10.44.27 Dental Hygiene Practice-General Supervision-Private Office**

The chapter is the result of legislative amendments to Ann. Code of Maryland, Health Occupations Article, § 4-308, Chapter 221, Acts of 2003. The chapter delineates the requirements for a dental hygienist to work under the general supervision of a dentist in a private dental office when the dentist is not on the premises while the dental hygiene services are provided. Note that there are specific requirements that must be met before a dental hygienist may provide dental hygiene services under this chapter.

*(Chapter effective December 11, 2003).*

#### **10.44.28 Teachers' Licenses for Graduates of United States or Canadian Dental Schools and Schools of Dental Hygiene**

The chapter governs the application process for obtaining a teacher's license to practice dentistry and a teacher's license to practice dental hygiene for graduates of United States or Canadian dental schools and schools of dental hygiene. *(Chapter effective January 6, 2005).*

### **10.31.02 Tax Compliance Regulations**

The chapter is not contained in the Dental Board's regulations at COMAR, Title 10, Subtitle 44, but nonetheless has an impact upon its licensing procedures. The chapter clarifies the process that the health occupation boards, including the Dental Board, must follow when a certificate holder, licensee, registration holder, or permit holder has failed to pay the certificate holder, licensee, registration holder, or permit holder's taxes or unemployment insurance contributions pursuant to House Bill 935, Budget Reconciliation and Financing Act of 2003, Chapter 203, Acts of 2003. (*Chapter effective December 11, 2003*).

## **Statutes**

### **Health Occupations Article, §§ 4-101, 4-304, and 4-308**

The amendment established a volunteer dentist's and a volunteer dental hygienist's license. The license is intended for dentists and dental hygienists who presently hold an active dental or dental hygienist license in a state other than Maryland. See COMAR 10.44.26 above. (*Chapter 237, Acts of 2003, effective October 1, 2003*).

### **Health Occupations Article, §§ 4-202 and 4-702**

The amendment increased the number of Board members from 15 to 16, the 16<sup>th</sup> member being a dental hygienist. The amendment also extended the provisions of Health Occupations Article, title 4, to July 1, 2011. (*Chapter 373, Acts of 2005, effective October 1, 2005*)

### **Health Occupations Article, § 4-205**

The amendment mandates that the Board develop and draft regulations concerning the administration of sedation. Prior to the amendment, the Board had authority to adopt, and had adopted regulations governing the administration of general anesthesia and parenteral sedation. The Board is presently in the process of drafting sedation regulations. (*Chapter 357, Acts of 2004, effective October 1, 2004*).

### **Health Occupations Article, § 4-303.1**

The new section allows the Board under certain circumstances to grant a waiver of the educational requirements of § 4-302 of the Health Occupations Article to applicants for a limited license to practice dentistry who are contractually obligated to provide pediatric dental services in a federally qualified health center or Maryland qualified health center. (*Chapter 131, Acts of 2003, effective October 1, 2003, terminates at the end of September 30, 2006*).

### **Health Occupations Article, § 4-306**

The amendment expands upon the paths an applicant licensed in another state may pursue to obtain a general license to practice dentistry or dental hygiene in Maryland. Under the amendment an applicant may under certain circumstances, obtain licensure in Maryland by having "passed a regional board" which means that "an applicant earned a score of 75% in each discipline, clinical skill, procedure, or knowledge area that is tested on the NERB examination using the internal weighting and scoring methods the NERB uses to

score the NERB's examination of dentistry or dental hygiene respectively." Results of regional boards other than NERB are compared to the NERB examination using the above criteria. Regional boards other than NERB are the Central Regional Testing Service, the Southern Regional Testing Agency, Inc., and the Western Regional Examining Board, Inc. (*Chapter 142, Acts of 2003, effective October 1, 2003*).

**Health Occupations Article, § 4-308**

The amendment permits licensed dental hygienists, under certain prescribed circumstances, to perform dental hygiene services in a private dental office without a dentist on the premises. The law did not expand upon the duties that a dental hygienist may perform. See COMAR 10.44.27 above. (*Chapter 221, Acts of 2003, effective October 1, 2003*).

**Health Occupations Article, § 4-318**

The amendment allows subpoenas to be issued over the signature of an officer or the administrator of the Board. Previous to the amendment, subpoenas could be issued only over the signature of the Board secretary. (*Chapter 58, Acts of 2003, effective October 1, 2003*).