

Senate Bill 12

By: Senators Unterman of the 45th, Seay of the 34th, Hufstetler of the 52nd and Kirk of the 13th

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Article 3 of Chapter 11 of Title 43 of the Official Code of Georgia Annotated,
2 relating to dental hygienists, so as to authorize licensed dental hygienists to perform certain
3 functions under general supervision in certain settings; to provide for legislative findings and
4 intent; to provide for definitions; to provide for criteria; to provide for requirements; to
5 collect certain Medicaid data; to provide for statutory construction; to provide for related
6 matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

7 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

8 **SECTION 1.**

9 (a) The General Assembly finds that:

- 10 (1) Statistics show that nearly one-third of older adults have untreated tooth decay and
11 nearly 25 percent of adults ages 65 to 74 have severe gum disease. Statistics also show
12 that a significant percentage of lower income children in Georgia do not have adequate
13 access to dental care, putting them at significant risk of developing tooth decay and other
14 oral health conditions;
- 15 (2) Professional preventative hygiene services can help prevent such conditions before
16 they begin;
- 17 (3) Preventative care is the most cost-effective care that can be delivered to the public;
- 18 (4) In 2016, 4,106 Georgians sought emergency dental care at Grady Memorial Hospital
19 at a cost of \$1.75 million; and
- 20 (5) Of Georgia's 159 counties, 118 are considered dental health professional shortage
21 areas, meaning there are not enough licensed dentists in those areas to meet the dental
22 care needs of the public, resulting in individuals seeking emergency care for dental
23 issues.
- 24 (b) It is the intent of the General Assembly to increase access to preventative dental care
25 for underserved and needy populations. It is further the intent of the General Assembly

26 that the rules and regulations promulgated by the Georgia Board of Dentistry pursuant to
27 this Act effectuate this purpose to the greatest extent allowable.

28 **SECTION 2.**

29 Article 3 of Chapter 11 of Title 43 of the Official Code of Georgia Annotated, relating to
30 dental hygienists, is amended by revising Code Section 43-11-74, relating to direct
31 supervision requirements, scope of duties, and exceptions to required supervision for dental
32 screenings, as follows:

33 "43-11-74.

34 (a) As used in this Code section the term:

35 (1) 'Direct supervision' means that a licensed dentist is in the dental office or treatment
36 facility, personally diagnoses the condition to be treated, personally authorizes the
37 procedure and remains in the dental office or treatment facility while the procedure is
38 being performed by the dental hygienist, and before dismissal of the patient, examines
39 the patient.

40 (2) 'General supervision' means that a licensed dentist has authorized the delegable duties
41 of a licensed dental hygienist but does not require that a licensed dentist be present when
42 such duties are performed.

43 (b) Licensed dental ~~Dental~~ hygienists shall perform their duties only under the direct
44 supervision of a licensed dentist, except as otherwise provided in this Code section. No
45 licensed dental hygienist shall diagnose, prescribe, determine the initial dosage, or increase
46 the initial dosage of nitrous oxide, practice dentistry, or do any kind of dental work other
47 than to remove calcareous deposits, secretions, and stains from the surfaces of the teeth,
48 to apply ordinary wash or washes of a soothing character, and to perform those acts,
49 services, procedures, and practices which the board shall prescribe by rule or regulation.
50 ~~The board shall not delegate to dental hygienists the authority to administer local~~
51 ~~anesthesia, except that this restriction shall automatically expire July 1, 1992.~~

52 ~~(b)~~(c) After meeting such additional education and training requirements as the board may
53 require by rule or regulation, a licensed dental hygienist may perform such other acts,
54 practices, services, or procedures under the direct supervision of a licensed dentist, which
55 the board may prescribe by rule or regulation subject, however, to the limitations set forth
56 in subsection ~~(a)~~ (b) of this Code section.

57 ~~(c)~~(d) The requirement of direct supervision shall not apply to the educational training of
58 dental hygiene students at an institution approved by the board and the Commission on
59 Dental Accreditation of the American Dental Association, or its successor agency, when
60 such instruction is carried out under such degree of supervision by a licensed dentist as the
61 board may prescribe by rule or regulation.

62 ~~(d)~~(e) The requirement of direct supervision shall not apply to the performance of dental
 63 hygiene duties at approved dental facilities of the Department of Public Health, county
 64 boards of health, or the Department of Corrections or the performance of dental hygiene
 65 duties by personnel of the Department of Public Health or county boards of health at
 66 approved offsite locations. ~~The board shall provide by rule or regulation for criteria for~~
 67 ~~approval of such facilities and for the appropriate degree of supervision by a licensed~~
 68 ~~dentist over dental hygienists performing duties in such facilities.~~

69 ~~(e)~~(f)(1) As used in this subsection, the term 'dental screening' means a visual assessment
 70 of the oral cavity without the use of X-rays, laboratory tests, or diagnostic models to
 71 determine if it appears that a more thorough clinical examination and diagnosis should
 72 be conducted by a licensed dentist.

73 (2) The requirement of direct supervision shall not apply to the performance of licensed
 74 dental hygienists providing dental screenings in settings which include: schools; ;
 75 hospitals; ; ~~and~~ clinics; ~~and~~ state, county, local, and federal public health programs;
 76 federally qualified health centers; volunteer community health settings; senior centers;
 77 and family violence shelters, as defined in Code Section 19-13-20. Other health fair
 78 settings must be preapproved by the board.

79 (3) Each person who receives a dental screening pursuant to this subsection, or the parent
 80 or legal guardian if the person is a minor, must be informed in writing of the purpose and
 81 limitations of a dental screening and advised to seek a more thorough clinical
 82 examination by a licensed dentist to determine whether or not problems exist that might
 83 not be discovered in a dental screening. There shall be no fees charged for providing a
 84 dental screening pursuant to this subsection except for dental screenings provided by
 85 employees of the Department of Public Health or county boards of health. These fees
 86 must be paid directly to that department or county board of health and not to the
 87 individual who performs the dental screening.

88 (g)(1) In a private dental office setting, a licensed dental hygienist may perform only the
 89 following functions under general supervision:

90 (A) Application of sealants and oral prophylaxis and assessment;

91 (B) Fluoride treatment;

92 (C) Oral hygiene instruction and education; and

93 (D) Exposure and processing of radiographs if provided for by specific standing orders
 94 of the authorizing licensed dentist, including any protocols regarding urgent dental
 95 issues that arise.

96 (2) A licensed dentist in a private dental office setting may authorize general supervision
 97 of a licensed dental hygienist only upon meeting the following criteria:

- 98 (A) A new patient of record must be clinically examined by the authorizing licensed
99 dentist during the initial visit;
- 100 (B) A patient must be examined by the authorizing licensed dentist at a minimum of
101 twelve-month intervals; and
- 102 (C) A patient must be notified in advance of the appointment that he or she will be
103 treated by the licensed dental hygienist under general supervision without the
104 authorizing licensed dentist being present or being examined by the authorizing
105 licensed dentist.
- 106 (h) In school settings, licensed dental hygienists may apply topical fluoride and perform
107 the application of sealants and oral prophylaxis under general supervision, with written
108 permission of the student's parent or guardian. Such written permission may be obtained
109 by the school in the same manner as other parental permissions are obtained. Licensed
110 dental hygienists may also, without prior written permission of the student's parent or
111 guardian, provide oral hygiene instruction and counseling. Confidentiality of any records
112 related to services provided to a student pursuant to this subsection shall be maintained by
113 the licensed dental hygienist and authorizing licensed dentist in compliance with the federal
114 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Section 1232g. School
115 settings shall include only schools that are Title I schools under the federal Elementary and
116 Secondary Education Act, schools in which at least 65 percent of the student population
117 is eligible for free or reduced price lunch under federal guidelines, Head Start programs,
118 and Georgia's Pre-K Program.
- 119 (i) In hospitals, nursing homes, long-term care facilities, rural health clinics, federally
120 qualified health centers, health facilities operated by federal, state, county, or local
121 governments, hospices, family violence shelters as defined in Code Section 19-13-20, and
122 free health clinics as defined in Code Section 51-1-29.4, licensed dental hygienists may
123 apply topical fluoride and perform the application of sealants and oral prophylaxis under
124 general supervision.
- 125 (j) A licensed dental hygienist providing dental hygiene services pursuant to subsection (h)
126 or (i) of this Code section shall:
- 127 (1) Not perform any dental hygiene services on a patient that has dental pain or clearly
128 visible evidence of widespread dental disease. The licensed dental hygienist shall
129 immediately refer such patient to the authorizing licensed dentist for clinical examination
130 and treatment. The licensed dental hygienist shall notate such patient's file and the
131 patient shall not be eligible to receive dental hygiene services pursuant to subsection (h)
132 or (i) of this Code section until a licensed dentist provides written authorization that such
133 services may be performed on the patient;

134 (2) Prior to providing any dental hygiene services, obtain, study, and comprehend the
135 school's or facility's protocols and procedures regarding medical emergencies and
136 implement and comply with such protocols and procedures if a medical emergency arises
137 during the provision of dental hygiene services; and

138 (3) Provide to each patient receiving such services written notice containing:

139 (A) The name and license number of the licensed dental hygienist and the authorizing
140 licensed dentist;

141 (B) Any dental hygiene issues that the licensed dental hygienist identified during the
142 performance of dental hygiene duties. If dental hygiene services are not performed on
143 the patient pursuant to paragraph (1) of this subsection, the written notice shall include
144 a statement that the patient is not eligible to receive dental hygiene services until a
145 clinical examination is performed by a licensed dentist and a licensed dentist provides
146 written authorization that services may be performed; and

147 (C) A statement advising each patient who receives dental hygiene services to seek a
148 more thorough clinical examination by a licensed dentist within 90 days, unless the
149 authorizing licensed dentist performed an initial clinical examination of the patient.

150 The licensed dental hygienist shall make all reasonable efforts to provide such written
151 notice to parents or legal guardians of minors or incapacitated adults who receive dental
152 hygiene services and to the long-term care facility or nursing home for residents of such
153 facilities who receive dental hygiene services.

154 (k)(1) Any licensed dental hygienist performing dental hygiene services under general
155 supervision pursuant to this Code section shall have at least two years of experience in
156 the practice of dental hygiene, shall be in compliance with continuing education
157 requirements pursuant to Code Section 43-11-73.1 and cardiopulmonary resuscitation
158 certification requirements contained in Code Section 43-11-73, and shall be licensed in
159 good standing.

160 (2) Licensed dental hygienists practicing under general supervision shall maintain
161 professional liability insurance in accordance with board rules and regulations.

162 (l)(1) No licensed dentist shall be required to authorize a licensed dental hygienist or
163 dental hygienists to perform dental hygiene duties pursuant to subsection (g), (h), or (i)
164 of this Code section.

165 (2) It shall be in the sole discretion of the authorizing licensed dentist as to whether or
166 not to require an initial examination of the patient prior to the performance by a licensed
167 dental hygienist of dental hygiene services under general supervision.

168 (3) A licensed dentist may only authorize up to four licensed dental hygienists to provide
169 dental hygiene services pursuant to subsection (g), (h), or (i) of this Code section at any
170 one time.

171 (4) A licensed dentist authorizing one or more licensed dental hygienists to provide
172 dental hygiene services pursuant to subsection (h) or (i) of this Code section shall practice
173 dentistry and treat patients in a physical and operational dental office located in this state
174 within 50 miles of the setting in which the dental hygiene services are to be provided
175 under general supervision.

176 (m) Dental hygiene services provided by licensed dental hygienists in mobile dental vans
177 shall always be provided under direct supervision.

178 (n) Dental assistants may use rubber cup prophy on a patient with primary dentition under
179 the direct supervision of a licensed dentist in accordance with any guidelines or rules
180 established by the board. Dental assistants shall meet any education, training, or other
181 requirements as established by the board.

182 (o)(1) Nothing in this Code section shall be construed to require a school or facility
183 receiving dental hygiene services provided pursuant to subsection (h) or (i) of this Code
184 section to purchase any equipment.

185 (2) Nothing in this Code section shall be construed to establish independent dental
186 hygiene practice.

187 (p) The Department of Community Health shall collect or cause to be collected data
188 regarding changes to utilization rates for dental services provided to recipients of Medicaid
189 and shall make such data readily available to members of the General Assembly upon
190 written request.

191 (q) The Georgia Board of Dentistry shall provide a report to the House Committee on
192 Health and Human Services and the Senate Health and Human Services Committee by
193 January 1 in 2018, 2019, and 2020 on the number of licensed dentists providing dental
194 hygienist services under general supervision in each of the following settings: hospitals;
195 nursing homes; long-term care facilities; rural health clinics; federally qualified health
196 centers; health facilities operated by federal, state, county, or local governments; hospices;
197 family violence shelters as defined in Code Section 19-13-20; and free health clinics as
198 defined in Code Section 51-1-29.4."

199 **SECTION 3.**

200 This Act shall become effective on January 1, 2018.

201 **SECTION 4.**

202 All laws and parts of laws in conflict with this Act are repealed.