

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 725

(Delegate Cullison, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

State Board of Dental Examiners - Death of a Licensed Dentist - Ownership of a
Dental Practice

This bill authorizes an heir or personal representative of a deceased licensed dentist, under specified circumstances, to serve as the owner of a dental practice for up to one year after the death of the licensed dentist, regardless of whether the heir or personal representative is licensed to practice dentistry. The State Board of Dental Examiners, on written request and good cause shown, may extend the one-year period for up to an additional six months to allow the heir or personal representative time to sell or otherwise dispose of the dental practice.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances.

Local Effect: None.

Small Business Effect: Potential meaningful for small business dental practices for which the heir or personal representative of a deceased licensed dentist may temporarily serve as the owner under the bill.

Analysis

Bill Summary: The bill exempts an heir or personal representative of a deceased licensed dentist from the general requirement that an individual must be licensed by the board to practice dentistry before the individual may practice dentistry on a human being in this State. The bill establishes that the requirement that an individual be licensed does not apply

to an heir or personal representative of a deceased licensed dentist if (1) the deceased licensed dentist was the owner of the dental practice; (2) the deceased licensed dentist did not provide for the disposition of the dental practice; and (3) the heir or the personal representative serves as the *owner* of the dental practice for no longer than one year after the death of the licensed dentist unless the board extends the time period, regardless of whether the heir or the personal representative is licensed to practice dentistry.

During the temporary ownership of a dental practice by an heir or personal representative, all patient care must be provided (1) by an individual licensed by the board and (2) in accordance with the individual's scope of practice. The temporary ownership of a dental practice by an heir or a personal representative may not affect the exercise of the independent judgment of a licensed dentist who provides care to patients.

Current Law: An individual must obtain a license from the board to practice dentistry. "Practice dentistry" encompasses being a manager, proprietor, or conductor of or an operator in any place in which a dental service or operation is performed intraorally. A person who practices or attempts to practice dentistry without a license or misrepresents to the public regarding the person's authorization to practice dentistry is guilty of a misdemeanor and on conviction is subject to a fine of up to \$2,000 or imprisonment for up to six months for a first offense, and a fine of up to \$6,000 or imprisonment for up to one year for a subsequent offense.

The State Board of Morticians and Funeral Directors issues an executor license to the personal representative of a deceased mortician's, funeral director's, or surviving spouse's estate in order to allow for the continued operation of a mortuary science business until it is sold or the personal representative attains licensure. An executor license is valid for one year and may be renewed for an additional three months under specified circumstances. Under an executor license, the business must be operated under the direct supervision of a licensed mortician or funeral director, and embalming services must be performed by a licensed mortician.

Background: The State Board of Dental Examiners is mandated to protect the public by regulating the practice of dentistry and dental hygiene in Maryland. Among the enumerated duties, the board issues licenses, adopts standards of practice for dentistry, investigates complaints based on alleged violations of regulations and statutes, and disciplines licensees. According to the Department of Health and Mental Hygiene (DHMH), for fiscal 2018, the estimated number of licensed dentists is 5,143 and the estimated number of licensed dental hygienists is 3,613.

In 2014, the board proposed regulations that would have established that only a dentist may own, manage, conduct, operate, or be the proprietor of a dental practice. The regulations were not adopted.

Senate Bill 887 of 2015 would have (1) removed managers, proprietors, and conductors of or operators in any place in which a dental service or operation is performed intraorally from the definition of “practice dentistry” and (2) exempted specified individuals from State licensure requirements, including those who provide administrative and related services to dental practices. Senate Bill 887 was referred to interim study by the Senate Education, Health, and Environmental Affairs Committee. In response, DHMH convened a stakeholder workgroup to study and make recommendations about ownership of dental practices in Maryland. The workgroup comprised dental providers, nonprofits, dental service organizations, and board representatives and considered which entities should be exempt from ownership requirements, what activities should be performed by a dentist, and what activities could be performed by an unlicensed party.

Additional Information

Prior Introductions: HB 1468 of 2016, a bill with similar provisions, received a hearing in the House Health and Government Operations Committee, but no further action was taken.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene; Department of Legislative Services

Fiscal Note History: First Reader - March 1, 2017
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