



Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

Maryland State Board of Dental Examiners

Spring Grove Hospital Center • Benjamin Rush Building
55 Wade Avenue/Tulip Drive • Catonsville, MD 21228
Main Line: 410-402-8501 • health.maryland.gov/dental

**2020 SESSION
POSITION PAPER**

BILL NO: HB 939

COMMITTEE: Health and Government Operations

POSITION: Support

TITLE: State Board of Dental Examiners-Practice of Dentistry-Revisions

BILL ANALYSIS: The bill accomplishes several important things. It preserves the requirement, in existence since 1937, that only a dentist may own a dental practice. It also makes clear that a professional corporation owned solely by one or more dentists may own a dental practice. It delineates those functions that a non-dentist may perform such as providing bookkeeping, accounting, and tax preparation services, administering and processing payroll, interacting with patients and third parties for billing and collection, creating advertising, providing IT services, and providing general office management. It establishes a narrowly tailored exception to the dentist ownership requirement for a clinic maintained by a public school, a federal, state, or local government agency, an approved dental or dental hygiene program, a charitable organization, non-profit organizations, and federally qualified health centers or federally qualified health center look-alikes. The bill also authorizes the Board to take administrative action against a dentist who accepts or tenders rebates or split fees.

POSITION AND RATIONALE: The Board supports HB 939. The bill is intended to codify the role of non-dentists in a dental office, specifically what functions they may undertake, and how they may be lawfully compensated. The issue has been before the General Assembly for several years.

The Board strongly supports the requirement that only a dentist may own a dental practice. The rationale is that a dentist's independent clinical judgment should not be influenced or controlled by non-dentist investors whose sole purpose for investment is profits for shareholders at the expense of patient care. When there is a duty to maximize profits, patients suffer. Under the bill only a dentist may evaluate, diagnose, and determine treatment plans and treatment options. Only a dentist may determine and establish patient protocols, dental standards of care, and dental practice guidelines. It would be unlawful for any person who is not a licensed dentist to direct, control, or interfere with the professional independent judgment of a dentist or a dental hygienist regarding the diagnosis, care, or treatment of a patient's dental disease, disorder, or physical condition.

The bill expressly enumerates those functions that can be performed in a dental office or in support of a dental office that would not require a dental license. Those functions are intended to be back-office functions and include providing bookkeeping accounting and tax preparation, billing and collections, advertising, hiring and firing of nonprofessional office staff, information technology support, risk management, and consulting services related to productivity, efficiency, and cost management. The non-licensee may be paid fees that must be a predetermined fixed fee or fixed compensation that is based upon prior revenues or profits over a preceding period of 12 months or longer.

The Board also strongly favors the portion of the bill that would allow the Board greater flexibility in investigating alleged violations of the law. The bill provides that any contractual provision that could be interpreted to limit or prevent a dentist or a dentist's auxiliary personnel from testifying or providing information to the Board, the General Assembly, or a court concerning a violation of the law shall be void, and unenforceable as contrary to the public policy of the State.

For these reasons the Board respectfully requests that HB 939 receive a favorable report.

I hope that this information is useful. If you would like to discuss this further, please contact Dr. James Goldsmith, Board President at 301-367-2352, jgoldsm217@comcast.net, or Dr. Arpana Verma, the Board's Legislative Committee Chair at 240-498-8159, asverma93@gmail.com. In addition, the Board's Executive Director, Mr. Frank McLaughlin, may be reached at 443-878-5253, frank.maclaughlin@maryland.gov.

The opinion of the Maryland State Board of Dental Examiners expressed in this support position paper does not necessarily reflect that of the Department of Health or the Administration.

