

SENATE BILL 209

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1999 Regular Session
(9r0325)

ENROLLED BILL

-- Economic and Environmental Affairs/Environmental Matters --

Introduced by **Senator Hollinger (Chairman, Health Subcommittee) and
Senators Conway, Harris, Pinsky, and Sfikas**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **State Board of Dental Examiners**

3 FOR the purpose of increasing the number of consumer members appointed to the
4 State Board of Dental Examiners; defining a certain term; altering a certain
5 definition; requiring the Board to fund a certain dentist rehabilitation
6 committee; ~~subjecting the membership of the committee to the approval of the~~
7 ~~Secretary of the Department of Health and Mental Hygiene Board~~ and a certain
8 dental hygienist rehabilitation committee; providing for the appointment of
9 certain members of the members for a certain dentist rehabilitation committee;
10 requiring the Maryland State Dental Association and the Maryland Dental
11 Hygienists' Association to submit a budget to the Board for the ~~committee~~
12 committees; requiring the Legislative Auditor to audit the accounts and
13 transactions of the ~~committee~~ committees; continuing the State Board of Dental
14 Examiners by extending to a certain date the termination provisions relating to
15 the statutory and regulatory authority of the Board; requiring that an
16 evaluation of the Board and the statutes and regulations that relate to the Board

1 *be performed on or before a certain date*; requiring the Board to submit a certain
 2 report on or before a certain date; and generally relating to the State Board of
 3 Dental Examiners.

4 BY repealing and reenacting, with amendments,
 5 Article - Health Occupations
 6 Section 4-202(a), 4-207, 4-501, 4-508, and 4-702
 7 Annotated Code of Maryland
 8 (1994 Replacement Volume and 1998 Supplement)

9 BY adding to
 10 Article - Health Occupations
 11 Section 4-501.1
 12 Annotated Code of Maryland
 13 (1994 Replacement Volume and 1998 Supplement)

14 *BY repealing and reenacting, with amendments,*
 15 *Article - State Government*
 16 *Section 8-403(c)*
 17 *Annotated Code of Maryland*
 18 *(1995 Replacement Volume and 1998 Supplement)*

19 *BY repealing and reenacting, without amendments,*
 20 *Article - State Government*
 21 *Section 8-403(e)*
 22 *Annotated Code of Maryland*
 23 *(1995 Replacement Volume and 1998 Supplement)*

24 *BY adding to*
 25 *Article - State Government*
 26 *Section 8-403(k)*
 27 *Annotated Code of Maryland*
 28 *(1995 Replacement Volume and 1998 Supplement)*

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 30 MARYLAND, That the Laws of Maryland read as follows:

31 **Article - Health Occupations**

32 4-202.

33 (a) (1) The Board consists of [14] 15 members.

34 (2) Of the [14] 15 Board members:

- 1 (i) 9 shall be licensed dentists;
- 2 (ii) 3 shall be licensed dental hygienists; and
- 3 (iii) [2] 3 shall be consumer members.

4 (3) The Governor shall appoint the dentist Board members, with the
5 advice of the Secretary, from a list of names submitted to the Governor jointly by the
6 Maryland State Dental Association and the Maryland Dental Society. The number of
7 names on the list for one vacancy shall be at least four names, for two vacancies at
8 least three names for each vacancy, and for three or more vacancies at least two
9 names for each vacancy.

10 (4) The Governor shall appoint the dental hygienist Board members,
11 with the advice of the Secretary, from a list of names submitted to the Governor by
12 the Maryland Dental Hygienists' Association. The number of names on the list shall
13 be four times the number of vacancies.

14 (5) The Governor shall appoint the consumer members with the advice of
15 the Secretary and the advice and consent of the Senate.

16 4-207.

17 (a) There is a State Board of Dental Examiners Fund.

18 (b) (1) The Board may set reasonable fees for the issuance and renewal of
19 licenses and its other services.

20 (2) The fees charged shall be set so as to approximate the cost of
21 maintaining the Board.

22 (3) Funds to cover the compensation and expenses of the Board members
23 shall be generated by fees set under this section.

24 (c) (1) The Board shall pay all funds collected under this title to the
25 Comptroller of the State.

26 (2) The Comptroller shall distribute the fees to the State Board of Dental
27 Examiners Fund.

28 (d) (1) The Fund shall be used to cover the actual documented direct and
29 indirect costs of fulfilling the statutory and regulatory duties of the Board as provided
30 by the provisions of this article.

31 (2) The Fund is a continuing nonlapsing fund, not subject to § 7-302 of
32 the State Finance and Procurement Article.

33 (3) Any unspent portions of the Fund may not be transferred or revert to
34 the General Fund of the State, but shall remain in the Fund to be used for the
35 purposes specified in this article.

1 (4) No other State money may be used to support the Fund.

2 (e) (1) In addition to the provisions of subsection (d) of this section, the
3 Board shall fund ~~the~~:

4 (I) THE budget of a dentist rehabilitation committee, as defined in
5 § [4-501] 4-501.1 of this title, with fees set, collected, and distributed to the Fund
6 under this title; AND

7 (II) THE BUDGET OF A DENTAL HYGIENIST REHABILITATION
8 COMMITTEE, AS DEFINED IN § 4-508 OF THIS TITLE, WITH FEES SET, COLLECTED,
9 AND DISTRIBUTED TO THE FUND UNDER THIS TITLE.

10 (2) After review and approval by the Board of a budget submitted by THE
11 MARYLAND STATE DENTAL ASSOCIATION FOR a dentist rehabilitation committee, the
12 Board may allocate moneys from the Fund to the dentist rehabilitation committee.

13 (3) AFTER REVIEW AND APPROVAL BY THE BOARD OF A BUDGET
14 SUBMITTED BY THE MARYLAND DENTAL HYGIENISTS' ASSOCIATION FOR A DENTAL
15 HYGIENIST REHABILITATION COMMITTEE, THE BOARD MAY ALLOCATE MONEYS
16 FROM THE FUND TO A DENTAL HYGIENIST REHABILITATION COMMITTEE.

17 (f) (1) A designee of the Board shall administer the Fund.

18 (2) Moneys in the Fund may be expended only for any lawful purpose
19 authorized under the provisions of this article.

20 (g) The Legislative Auditor shall audit the accounts and transactions of the
21 Fund as provided in § 2-1220 of the State Government Article.

22 4-501.

23 (a) (1) In this section the following words have the meanings indicated.

24 (2) "Dental review committee" means a committee or board that:

25 (i) Is within one of the categories described in subsection (b) of this
26 section; and

27 (ii) Performs any of the functions listed in subsection (c) of this
28 section.

29 (3) ["Dental rehabilitation committee" means a dental review committee
30 that performs any of the functions described in subsection (c)(5) of this section.

31 (4)] "Provider of dental care" means any person who is licensed by law to
32 provide dental care to individuals.

33 (b) For purposes of this section, a dental review committee is:

1 (1) A regulatory board or agency established by State or federal law to
2 license, certify, or discipline any provider of dental care;

3 (2) A committee of the Maryland State Dental Association[,] OR ANY OF
4 ITS COMPONENT SOCIETIES, INCLUDING A DENTIST REHABILITATION COMMITTEE
5 AS DEFINED IN § 4-501.1 OF THIS SUBTITLE;

6 (3) A COMMITTEE OF the Maryland Dental Society or any of [their] ITS
7 component societies[, or a];

8 (4) A COMMITTEE OF THE MARYLAND DENTAL HYGIENISTS'
9 ASSOCIATION, OR ANY OF ITS COMPONENT SOCIETIES, INCLUDING A DENTAL
10 HYGIENIST REHABILITATION COMMITTEE AS DEFINED IN § 4-508 OF THIS SUBTITLE;

11 ~~(4)~~ (5) A committee of any [other] professional society or association
12 composed of providers of dental care;

13 ~~[(3)]~~ ~~(5)~~ (6) A committee of the medical staff or other committee of a
14 hospital or related institution, if the governing board of the hospital or related
15 institution forms and approves the committee or approves the written bylaws under
16 which the committee operates;

17 ~~[(4)]~~ ~~(6)~~ (7) Any person, including a professional standard review
18 organization, who contracts with an agency of this State or of the federal government
19 to perform any of the functions listed in subsection (c) of this section; or

20 ~~[(5)]~~ ~~(7)~~ (8) Any person who contracts with a provider of dental care to
21 perform any of those functions listed in subsection (c) of this section that are limited
22 to the review of services provided by the provider of dental care.

23 (c) For purposes of this section, a dental review committee:

24 (1) Evaluates and seeks to improve the quality of dental care provided by
25 providers of dental care;

26 (2) Evaluates the need for and the level of performance of dental care
27 provided by providers of dental care;

28 (3) Evaluates the qualifications, competence, and performance of
29 providers of dental care;

30 (4) Evaluates and acts on matters that relate to the discipline of any
31 provider of dental care; or

32 (5) Evaluates and provides assistance to any provider of dental care in
33 need of treatment and rehabilitation for alcoholism, drug abuse, chemical
34 dependency, or other physical, emotional, or mental condition.

35 (d) Except as otherwise provided in this section, the proceedings, records, and
36 files of a dental review committee are not discoverable and are not admissible in

1 evidence in any civil action arising out of matters that are being reviewed and
2 evaluated by the dental review committee.

3 (e) Subsection (d) of this section does not apply to:

4 (1) A civil action brought by a party to the proceedings of the dental
5 review committee who claims to be aggrieved by the decision of the dental review
6 committee; or

7 (2) Any record or document that is considered by the dental review
8 committee and that otherwise would be subject to discovery and introduction into
9 evidence in a civil trial.

10 (f) A person who acts in good faith and within the scope of jurisdiction of a
11 dental review committee is not civilly liable for any action as a member of the dental
12 review committee or for giving information to, participating in, or contributing to the
13 function of the dental review committee.

14 4-501.1.

15 (A) IN THIS SECTION, "DENTIST REHABILITATION COMMITTEE" MEANS THE
16 COMMITTEE OF THE MARYLAND STATE DENTAL ASSOCIATION THAT EVALUATES
17 AND PROVIDES ASSISTANCE TO ANY PROVIDER OF DENTAL CARE IN NEED OF
18 TREATMENT AND REHABILITATION FOR ALCOHOLISM, DRUG ABUSE, CHEMICAL
19 DEPENDENCY, OR OTHER PHYSICAL, EMOTIONAL, OR MENTAL CONDITION.

20 (B) (1) SUBJECT TO THE PROVISIONS OF PARAGRAPH (2) OF THIS
21 SUBSECTION, THE MARYLAND STATE DENTAL ASSOCIATION SHALL APPOINT THE
22 MEMBERS OF THE DENTIST REHABILITATION COMMITTEE, SUBJECT TO THE
23 APPROVAL OF THE SECRETARY BOARD.

24 ~~(C)~~ (2) AT LEAST ONE MEMBER OF THE DENTIST REHABILITATION
25 COMMITTEE SHALL BE A MEMBER OF THE MARYLAND DENTAL SOCIETY.

26 ~~(C)~~ ~~(D)~~ (C) THE BOARD SHALL FUND THE BUDGET OF THE DENTIST
27 REHABILITATION COMMITTEE AS PROVIDED IN § 4-207 OF THIS TITLE.

28 ~~(D)~~ ~~(E)~~ (D) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND
29 TRANSACTIONS OF THE DENTIST REHABILITATION COMMITTEE AS PROVIDED IN §
30 2-1220 OF THE STATE GOVERNMENT ARTICLE.

31 4-508.

32 (a) In this section "dental hygienist rehabilitation committee" means [a
33 committee that:

34 (1) Is defined in subsection (b) of this section; and

35 (2) Performs any of the functions listed in subsection (d) of this section.

1 (b) For the purposes of this section, a dental hygienist rehabilitation committee
2 is a committee of the Board or of the Dental Hygienists' Association that:

3 (1) Is recognized by the Board; and

4 (2) Includes but is not limited to dental hygienists.

5 (c) A rehabilitation committee of the Board or recognized by the Board may
6 function:

7 (1) Solely for dental hygienists; or

8 (2) Jointly with a rehabilitation committee representing another board or
9 boards.

10 (d) For purposes of this section, a dental hygienist rehabilitation committee]
11 THE COMMITTEE OF THE MARYLAND DENTAL HYGIENISTS' ASSOCIATION THAT
12 evaluates and provides assistance to any dental hygienist in need of treatment and
13 rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical,
14 emotional, or mental condition.

15 (B) THE MARYLAND DENTAL HYGIENISTS' ASSOCIATION SHALL APPOINT THE
16 MEMBERS OF THE DENTAL HYGIENIST REHABILITATION COMMITTEE.

17 (C) THE BOARD SHALL FUND THE BUDGET OF THE DENTAL HYGIENIST
18 REHABILITATION COMMITTEE AS PROVIDED IN § 4-207 OF THIS TITLE.

19 (D) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND
20 TRANSACTIONS OF THE DENTAL HYGIENIST REHABILITATION COMMITTEE AS
21 PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

22 (e) (1) Except as otherwise provided in this subsection, the proceedings,
23 records, and files of the dental hygienist rehabilitation committee are not discoverable
24 and are not admissible in evidence in any civil action arising out of matters that are
25 being or have been reviewed and evaluated by the dental hygienist rehabilitation
26 committee.

27 (2) Paragraph (1) of this subsection does not apply to any record or
28 document that is considered by the dental hygienist rehabilitation committee and that
29 otherwise would be subject to discovery or introduction into evidence in a civil action.

30 (3) For purposes of this subsection, civil action does not include a
31 proceeding before the Board or judicial review of a proceeding before the Board.

32 (f) A person who acts in good faith and within the scope of jurisdiction of a
33 dental hygienist rehabilitation committee is not civilly liable for any action as a
34 member of the dental hygienist rehabilitation committee or for giving information to,
35 participating in, or contributing to the function of the rehabilitation committee.

1 4-702.

2 Subject to the evaluation and reestablishment provisions of the Program
3 Evaluation Act, this title and all rules and regulations adopted under this title shall
4 terminate and be of no effect after July 1, [1999] ~~2003~~ ~~2013~~ 2006.

5 **Article - State Government**

6 8-403.

7 (c) Except as otherwise provided in subsection (e) of this section, on or before
8 July 1, 2002, an evaluation shall be made of the following governmental activities or
9 units and the statutes and regulations that relate to the governmental activities or
10 units:

11 (1) Board of Boiler Rules (Article 48, § 169 of the Code);

12 [(2)] State Board of Dental Examiners (§ 4-201 of the Health Occupations
13 Article);]

14 [(3)] (2) Board of Examining Engineers (§ 4-1 of the Public Local Laws
15 of Baltimore City);

16 [(4)] (3) State Health Services Cost Review Commission (§ 19-202 of the
17 Health - General Article);

18 [(5)] (4) Insurance Commissioner and Administration (§§ 2-101 and
19 2-103 of the Insurance Article);

20 [(6)] (5) State Board of Examiners of Landscape Architects (§ 9-201 of
21 the Business Occupations and Professions Article);

22 [(7)] (6) State Board of Master Electricians (§ 6-201 of the Business
23 Occupations and Professions Article);

24 [(8)] (7) State Board of Physician Quality Assurance (§ 14-201 of the
25 Health Occupations Article);

26 [(9)] (8) State Board of Nursing (§ 8-201 of the Health Occupations
27 Article);

28 [(10)] (9) State Board of Examiners of Nursing Home Administrators (§
29 9-201 of the Health Occupations Article);

30 [(11)] (10) State Board of Examiners in Optometry (§ 11-201 of the Health
31 Occupations Article);

32 [(12)] (11) State Board of Pharmacy (§ 12-201 of the Health Occupations
33 Article);

1 ~~[(13)]~~ (12) State Board of Plumbing (§ 12-201 of the Business Occupations
2 and Professions Article);

3 ~~[(14)]~~ (13) State Board for Professional Engineers (§ 14-201 of the
4 Business Occupations and Professions Article);

5 ~~[(15)]~~ (14) State Board for Professional Land Surveyors (§ 15-201 of the
6 Business Occupations and Professions Article);

7 ~~[(16)]~~ (15) State Board of Examiners of Psychologists (§ 18-201 of the
8 Health Occupations Article);

9 ~~[(17)]~~ (16) State Board of Environmental Sanitarians (§ 11-201 of the
10 Environment Article);

11 ~~[(18)]~~ (17) State Health Resources Planning Commission (§ 19-103 of the
12 Health - General Article);

13 ~~[(19)]~~ (18) State Economic Growth, Resource Protection and Planning
14 Commission (§ 5-701 of the State Finance and Procurement Article);

15 ~~[(20)]~~ (19) State Board of Heating, Ventilation, Air-Conditioning, and
16 Refrigeration Contractors (§ 9A-101 of the Business Regulation Article); and

17 ~~[(21)]~~ (20) State Board of Architects (§ 3-101 of the Business Occupations
18 and Professions Article).

19 (e) On or before November 30 of the 2nd year before the evaluation date of a
20 governmental activity or unit, the Legislative Policy Committee, based on a
21 preliminary evaluation, may waive as unnecessary the evaluation required under this
22 section.

23 (K) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (E) OF THIS SECTION,
24 ON OR BEFORE JULY 1, ~~2012~~ 2005, AN EVALUATION SHALL BE MADE OF THE STATE
25 BOARD OF DENTAL EXAMINERS AND THE REGULATIONS THAT RELATE TO THE
26 STATE BOARD OF DENTAL EXAMINERS.

27 SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of Dental
28 Examiners shall report to the Senate Economic and Environmental Affairs
29 Committee and the House Environmental Matters Committee on or before October 1,
30 1999, in accordance with § 2-1246 of the State Government Article, on the
31 implementation of the recommendations of the Department of Legislative Services
32 contained in the sunset evaluation report dated October 31, 1998.

33 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 July 1, 1999.

