

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 154 (Senator Hafer)
Education, Health, and Environmental Affairs

State Board of Dental Examiners - Hearings

This bill requires the State Board of Dental Examiners to charge an individual for hearing costs if he or she is found in violation of State statute establishing grounds for denying a license to practice dentistry or dental hygiene or for reprimanding, placing on probation, suspending the license, or revoking the license of a dentist or dental hygienist. The board must adopt regulations specifying the amount a person would pay to cover hearing costs. The bill also repeals the requirement that the board serve an individual at least 10 days before the hearing with the hearing notice and a copy of the complaint by hand delivery or certified mail.

Fiscal Summary

State Effect: Potential annual minimal increase in special fund revenues beginning in FY 2005. No effect on expenditures.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Subject to a hearing, the State Board of Dental Examiners may deny a general license to practice dentistry, a limited license to practice dentistry, or a teacher's license to practice dentistry to any applicant; reprimand any licensed dentist; place any licensed dentist on probation; or suspend or revoke the license of any licensed dentist if the applicant or licensee takes certain actions. Some of those actions include fraudulently

or deceptively obtaining or attempting to obtain a license for the applicant or another person; fraudulently or deceptively using a license; obtaining a fee by fraud or attempting to obtain a fee by fraud; practicing dentistry in a professionally incompetent manner or in a grossly incompetent manner; having had a license to practice dentistry revoked or suspended in any other state; violating any rule or regulation adopted by the board; or willfully making or filing a false report or record in the practice of dentistry.

Subject to a hearing, the board may deny a general license to practice dental hygiene, a teacher's license to practice dental hygiene, or a temporary license to practice dental hygiene to any applicant; reprimand any licensed dental hygienist; place any licensed dental hygienist on probation; or suspend or revoke the license of any licensed dental hygienist, if the applicant or the licensee takes certain actions. Some of those actions include fraudulently or deceptively obtaining or attempting to obtain a license for the applicant, licensee, or another person; fraudulently or deceptively using a license; practicing dental hygiene in a professionally incompetent manner or in a grossly incompetent manner; violating any rules or regulations of the board; or willfully making or filing a false report or record in the practice of dental hygiene.

The board may commence complaint proceedings for these and other violations on its own initiative or on a written complaint by another person filed with the board. A complaint from a person who is not a board member must: (1) be in writing; (2) be verified by a person familiar with the alleged facts; (3) request board action; and (4) be filed with the board secretary. The board must investigate each complaint filed with the board if the complaint alleges facts that are grounds for action under statute and meets statutory requirements. If the board begins action on its own initiative or if after investigation it elects to substitute its own complaint for one filed by a person who is not a board member, the board must prepare a written complaint.

Background: There are 5,057 active licensed dentists and 2,581 active licensed dental hygienists in Maryland. In fiscal 2002 and 2003, the board's complaint volume exceeded 500, a significant increase over prior years.

Approximately half of all complaints received by the board are closed with no action, with the remainder of cases addressed through informal or formal board action or referral to the Attorney General. The board's use of both formal action and referral of cases to the Attorney General has declined significantly over the past five years. The board took informal or formal action on 45 cases in fiscal 2002 and 108 cases in fiscal 2003. In fiscal 2002 the board referred 17 cases to the Attorney General. Twenty-nine cases were referred to the Attorney General in fiscal 2003. It is not clear whether the proportion of serious disciplinary cases is declining, a disproportionately large number of such cases

were resolved in prior years, or there has been a shift in how aggressively the board pursues disciplinary cases.

State Fiscal Effect: Special fund revenues to the board could increase annually beginning in fiscal 2005 reflecting the board recouping hearing costs. Although it cannot be determined how much revenue would be recouped by the board, Legislative Services assumes it would be minimal. Hearing costs may include expenditures for expert witnesses and court reporters.

The amount of revenue collected depends on the number of hearings held annually for which costs could be recovered and the length and complexity of each hearing. The fiscal 2005 budget allowance for the board's hearing costs is \$21,700, \$12,500 for expert witnesses, and \$9,200 for court reporters.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of Administrative Hearings; Department of Health and Mental Hygiene; *Preliminary Evaluation of the State Board of Dental Examiners*, 2003, Department of Legislative Services

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Analysis by: Lisa A. Daigle

Direct Inquiries to:
(410) 946-5510
(301) 970-5510