

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 717

(Delegate Boutin, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

State Board of Dental Examiners - Licensing and Regulation

This bill makes various changes to the State Board of Dental Examiners statute.

Fiscal Summary

State Effect: Potential minimal increase in special fund expenditures. No effect on special fund revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill allows the board, while investigating an allegation brought against a licensed dentist, licensed dental hygienist, or a certified dental radiation technologist, to direct the individual being investigated to submit to an examination by a culturally competent health care provider the board designates. A culturally competent health care provider is an individual who has the level of knowledge-based skills required to provide effective clinical care to a patient from a particular ethnic or racial group. The board must pay for any such examination, if the board determines that the licensed dentist or dental hygienist or the certified dental radiation technologist may cause harm to a patient affected by the practice of their professional duties.

In return for receiving a license or certification, a licensed dentist, licensed dental hygienist, or certified dental radiation technologist is deemed to have: (1) consented to

this examination if it is requested in writing by the board; and (2) waived any claim of privilege as to the testimony or examination reports of a health care provider who examines the licensee or certified technologist in a board proceeding to which both the board and licensee or certified technologist are parties.

A licensee's or technologist's unreasonable failure or refusal to submit to the examination is *prima facie* evidence of the licensee's inability to practice dentistry or dental hygiene competently or the technologist's ability to practice dental radiation technology competently unless the board finds the failure or refusal was beyond the individual's control.

The bill adds "willfully and without legal justification, failing to cooperate with a lawful investigation conducted by the board" as a reason the board may take disciplinary action against a dentist or dental hygienist. It prohibits an applicant who fails an examination four times from being licensed by the board. Part-time faculty may qualify for a teacher's license to practice dentistry or dental hygiene under the bill. The bill also allows the board to set the fee for replacing a lost or destroyed license at an amount approximating the actual cost of replacing the license. The bill also revises the dates board members' terms expire.

The bill repeals the requirements: (1) that board examinations must be given twice a year; (2) that the examination for a general license to practice dentistry must be in writing; (3) for additional education to be completed by a dentist or dental hygiene applicant who fails an exam more than once; (4) that an applicant for limited license seeking waiver of the board's educational requirements must pass a series of preliminary tests; and (5) that at least 10 days before a hearing before the board, the hearing notice and a copy of the complaint against an individual be delivered by hand or certified mail to the individual's last known business and home addresses.

Current Law:

Examination Requirements

The board must give examinations twice a year for applicants for a general license to practice dentistry or dental hygiene. To the extent practicable, the examination for a general license to practice dentistry must be in writing.

An applicant who fails an exam twice must complete 40 hours of additional education in an accredited school before retaking the exam. An applicant who fails an exam three times must retake and successfully complete the senior year of education at an accredited

school before retaking the exam. An applicant who fails an exam four times may not be reexamined.

Waiver of Limited License Requirements

The board may waive the educational requirements for a limited license applicant who does not hold a Degree of Doctor of Dental Surgery, Doctor of Dental Medicine, or the equivalent from a board-authorized college or university. The waiver may be granted only if the applicant passes a series of preliminary testes given by the board to determine if the applicant is qualified to take the exam for a general license to practice dentistry.

Teacher's License

An individual applying for a teacher's license to practice dentistry or dental hygiene must be a full-time faculty member at a dental school where the applicant teaches.

Disciplinary Actions and Hearings

The board may take disciplinary actions against an applicant for a general license to practice dentistry or dental hygiene or a licensee for various reasons, including: practicing dentistry or dental hygiene in a professionally incompetent manner or in a grossly incompetent manner; violating any board rule or regulation; or being mentally or physically incompetent to practice.

Before the board takes any disciplinary actions, it must give the individual against whom the action is contemplated an opportunity for a board hearing. At least 10 days before the hearing, the hearing notice and a copy of the complaint must be served against the individual by delivery to the individual's last known business and home addresses by hand or certified mail.

License Fee

The board must issue a license to replace a lost or destroyed license if the licensee pays a \$5 fee.

Background: In fiscal 2005, the board projects that more than 5,000 dentists and 2,500 dental hygienists will hold a license. The board also projects that almost 3,400 dental radiation technologists will hold a certificate.

State Fiscal Effect: Special fund expenditures could potentially increase minimally beginning in fiscal 2006 depending on the number of individuals the board requires to

submit to a health examination, for which the board must pay. The number of these potential cases is assumed to be small. No effect on special fund revenues.

Additional Comments: SB 248, and its cross file HB 420, introduced this session extend the board's termination date from July 1, 2006 to July 1, 2011 and make other changes to the statute authorizing the board.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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