

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL 811

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Weldon” and substitute “Weldon, and Stein”; strike in their entirety, lines 2 and 3 and substitute “State Board of Dental Examiners Nomination and Disciplinary Processes – Task Force on the Discipline of Health Care Professionals and Improved Patient Care”; strike beginning with “certain” in line 4 down through the second “to” in line 5 and substitute “the State Board of Dental Examiners to conduct a certain solicitation and balloting process and”; in line 7, strike “State Board of Dental Examiners” and substitute “Board”; in lines 7 and 8, strike “that individuals on certain lists reflect” and substitute “the Board to develop guidelines for certain solicitations and ballots that to the extent possible will result in a certain Board composition reflecting”; strike beginning with “requiring” in line 9 down through “delays;” in line 23; and in line 24, after “regulations” insert “in consultation with the Office of the Attorney General”.

On pages 1 and 2, strike beginning with “requiring” in line 29 on page 1 down through “general;” in line 2 on page 2.

On page 2, in line 3, after “date;” insert “establishing a Task Force on the Discipline of Health Care Professionals and Improved Patient Care; providing for the membership of the Task Force; providing for the designation of a chair of the Task Force; providing for staff for the Task Force; prohibiting a member of the Task Force from receiving compensation; authorizing a member of the Task Force to receive reimbursement for certain expenses; requiring the Task Force to study certain issues, issue certain recommendations, and report to the Governor and certain committees of the General Assembly on or before a certain date;”; in the same line, after “Examiners” insert “and the Task Force on the Discipline of Health Care Professionals and”

(Over)

Improved Patient Care"; and in line 6, strike “, 4-203, 4-204(c), and 4-316” and substitute “and (b)”.

AMENDMENT NO. 2

On page 2, in line 18, strike “The” and substitute “**SUBJECT TO SUBSECTION (B)(1) OF THIS SECTION, THE**”; strike beginning with “**ESTABLISHED**” in line 21 down through “**DENTISTRY**” in line 22 and substitute “**BOARD**”; strike in their entirety lines 26 through 28, inclusive; in line 29, strike “The” and substitute “**SUBJECT TO SUBSECTION (B)(2) OF THIS SECTION, THE**”; and strike beginning with “**ESTABLISHED**” in line 31 down through “**HYGIENE**” in line 33 and substitute “**BOARD**”.

On page 3, strike in their entirety lines 3 through 5, inclusive; and after line 10, insert:

“(b) [(1) At a joint meeting held by the Maryland State Dental Association and the Maryland Dental Society called to choose nominees for a dentist vacancy on the Board, a majority of the dentists present at the meeting shall choose the list of names of dentist nominees to the Board for submission to the Governor.

(2) At a meeting held by the Maryland Dental Hygienists’ Association called to choose nominees for a dental hygienist vacancy on the Board, a majority of the dental hygienists present at the meeting shall choose the list of names of dental hygienist nominees to the Board for submission to the Governor.

(3) At least 2 weeks before a meeting is held under paragraph (1) of this subsection, the secretaries of the appropriate organizations shall mail to each licensed practitioner actively practicing in Maryland, at the address appearing in their records or the records of the Board, a notice that states the time, place, and purpose of the meeting.

(4) At least 2 weeks before a meeting is held under paragraph (2) of this subsection, the Secretary of the Maryland Dental Hygienists' Association shall mail to each licensed dental hygienist, at the address appearing in their records or the records of the Board, a notice that states the time, place, and purpose of the meeting.]

(1) FOR EACH LICENSED DENTIST VACANCY, THE BOARD SHALL:

(I) SEND BY MAIL A WRITTEN SOLICITATION FOR NOMINATIONS TO FILL THE VACANCY TO:

- 1. EACH DENTIST LICENSED BY THE BOARD; AND**
- 2. EACH STATE DENTAL ORGANIZATION AFFILIATED WITH A NATIONAL ORGANIZATION; AND**

(II) CONDUCT A BALLOTING PROCESS BY WHICH EACH DENTIST LICENSED BY THE STATE IS ELIGIBLE TO VOTE TO SELECT THE NAMES OF THE LICENSED DENTISTS TO BE SUBMITTED TO THE GOVERNOR.

(2) FOR EACH LICENSED DENTAL HYGIENIST VACANCY, THE BOARD SHALL:

(I) SEND BY MAIL A WRITTEN SOLICITATION FOR NOMINATIONS TO FILL THE VACANCY TO:

- 1. EACH DENTAL HYGIENIST LICENSED BY THE BOARD; AND**
- 2. EACH STATE DENTAL HYGIENIST ORGANIZATION AFFILIATED WITH A NATIONAL ORGANIZATION; AND**

(Over)

(II) CONDUCT A BALLOTING PROCESS BY WHICH EACH DENTAL HYGIENIST LICENSED BY THE STATE IS ELIGIBLE TO VOTE TO SELECT THE NAMES OF THE LICENSED DENTAL HYGIENISTS TO BE SUBMITTED TO THE GOVERNOR.

(3) THE BOARD SHALL DEVELOP GUIDELINES FOR THE SOLICITATION OF NOMINATIONS AND BALLOTING PROCESS THAT TO THE EXTENT POSSIBLE WILL RESULT IN THE OVERALL COMPOSITION OF THE BOARD REASONABLY REFLECTING THE GEOGRAPHIC, RACIAL, ETHNIC, AND GENDER DIVERSITY OF THE STATE.

On pages 3 through 5, strike in their entirety the lines beginning with line 11 on page 3 through line 12 on page 5, inclusive.

AMENDMENT NO. 3

On page 5, strike beginning with “each” in line 16 down through “dentistry” in line 18 and substitute “the Office of the Attorney General”; in line 24, before “a” insert “to assure that similar acts of misconduct receive similar penalties,”; in line 28, after “length” insert “and conditions for completion of probationary periods”; in line 29, after “process;” insert “and”; and strike beginning with “; and” in line 32 down through “if:” in line 33 and substitute a period.

AMENDMENT NO. 4

On page 6, strike in their entirety lines 1 through 4, inclusive; in lines 7 and 9, in each instance, after “race” insert “, gender,”; in line 10, strike the first “of” and substitute “including standard definitions and written guidelines for”; strike beginning with “that” in line 20 down through “State” in line 24 and substitute “in accordance with § 4-202(a) and (b) of the Health Occupations Article, as enacted by Section 1 of this Act”; strike in their entirety lines 25 through 27, inclusive; in line 28, strike “5.” and substitute “4.”; and in line 31, after “of” insert “Section 1 through Section 3 of”.

AMENDMENT NO. 5

On page 6, after line 31, insert:

“SECTION 5 . AND BE IT FURTHER ENACTED, That:

(a) There is a Task Force on the Discipline of Health Care Professionals and Improved Patient Care.

(b) The Task Force consists of the following members:

(1) one member of the House of Delegates, appointed by the Speaker of the House;

(2) one member of the Senate of Maryland, appointed by the President of the Senate;

(3) the Secretary of Health and Mental Hygiene, or the Secretary’s designee;

(4) the Attorney General, or the Attorney General’s designee;

(5) the Chief Administrative Law Judge, or the Chief Judge’s designee;

(6) two current health occupation board members, appointed by the Secretary of Health and Mental Hygiene;

(7) two current executive directors or administrators for health occupation boards that may not be from the same boards as the representatives in item (5) of this subsection, appointed by the Secretary of Health and Mental Hygiene; and

(Over)

(8) nine individuals appointed by the Governor having expertise in professional disciplinary matters including at least:

(i) two representatives of a patient advocacy organization;

(ii) two attorneys from the Maryland State Bar Association's Health Law Section with experience in representing health professionals;

(iii) two representatives of professional health care associations;
and

(iv) two consumers of health care services.

(c) (1) The Secretary of Health and Mental Hygiene shall:

(i) appoint the chair of the Task Force;

(ii) establish subcommittees and appoint subcommittee chairs as necessary to facilitate the work of the Task Force; and

(iii) in conjunction with the Attorney General, provide staff support for the Task Force from the Department and the health occupation boards.

(2) To the extent practicable, the members appointed to the Task Force shall reasonably reflect the geographic, racial, ethnic, cultural, and gender diversity of this State.

(3) A member of the Task Force may not receive compensation as a member of the Task Force but is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(d) In performing its duties, the Task Force shall:

(1) consult with individuals and entities that the chair of the Task Force deems appropriate; and

(2) consider a broad range of viewpoints including those presented by organizations representing the interests of patients, licensees, payors, law enforcement, and other groups involved in the disciplinary system.

(e) The Task Force shall issue recommendations regarding:

(1) practices and procedures supporting the fundamental goals and objectives of the disciplinary programs of the health occupation boards;

(2) potential changes to the organizational structure of the health occupation boards and the relationship of all boards to the Department; and

(3) measures that will otherwise enhance the fair, consistent, and speedy resolution of reports concerning substandard, illegal, or unethical practices by health care professionals.

(f) The issues to be studied by the Task Force include:

(1) the extent to which the current disciplinary system:

(i) adequately protects patients from serious risks due to incompetent or unethical practices by licensees;

(ii) creates a burden to licensees that may be lessened, while ensuring continued protective and regulatory oversight;

(iii) uses mentors and the cost to licensees associated with using them;

(iv) adequately provides due process to licensees; and

(v) could be modified to more effectively protect patients, minimize incompetent or unethical behavior by licensees, provide more effective due process for licensees, and support the professional growth and development of all Maryland licensees;

(2) potential changes in the disciplinary program of the health occupation boards that will:

(i) increase the transparency of disciplinary procedures for members of the public and the regulated community;

(ii) improve the complaint process by addressing the roles of the boards, investigators, and assistant attorneys general including who may initiate complaints;

(iii) increase the consistency and fairness of disciplinary outcomes;

(iv) a statute of limitations for complaints to be brought against licensees;

(v) speed the resolution of meritorious complaints and the disposition of proceedings that do not require a public disciplinary order;

(vi) from the time a complaint is filed, specify a reasonable period of time in which a board will conclude its action unless the board can demonstrate delays outside of its control;

(vii) utilize the Office of Administrative Hearings more effectively;

(viii) under certain circumstances, expunge disciplinary proceedings from a licensee's file after a specified period time; and

(ix) increase the wider adoption of consistent procedures and best practices by all boards including tracking of disciplinary data;

(3) an assessment of whether the current relationship between individual boards, the Department, and the Office of the Attorney General should be modified in connection with the disciplinary process of the board including:

(i) oversight of the board by the Department;

(ii) the role of an assistant attorney general in the investigation process; and

(iii) the length of time an assistant attorney general works for an individual board and the potential of having the assistant attorneys general rotate among the boards; and

(4) the extent to which the current disciplinary system has a differential impact on various groups of licensees and potential strategies for minimizing differences while improving the overall quality of health care services.

(g) On or before December 1, 2008, the Task Force shall report its final recommendations to the Governor and, subject to § 2-1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee.

SECTION 6. AND BE IT FURTHER ENACTED, That Section 5 of this Act shall take effect July 1, 2008. It shall remain effective for a period of 1 year and, at the end of June 30, 2009, with no further action required by the General Assembly, Section 5 of this Act shall be abrogated and of no further force and effect.”;

in line 32, strike “6.” and substitute “7.”; and in the same line, after “That” insert “, subject to the provisions of Section 6 of this Act.”.