

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 1066 (Senator Colburn)
Education, Health, and Environmental Affairs

Health Occupations - Facilities for Dental Radiology

This bill authorizes a licensed dentist to own and operate a facility for dental radiology that is physically separate from the office of the licensed dentist. If a licensed dentist evaluates the results of a dental radiograph, a certified dental radiation technologist may practice dental radiation in the facility without the licensed dentist on the facility's premises. The State Board of Dental Examiners must adopt regulations for the operation of a facility for dental radiology to ensure the quality and safety of the services provided by the facility.

Fiscal Summary

State Effect: The State Board of Dental Examiners can handle the bill's requirements with existing budgeted resources. Any increase in dental radiation machine fee revenues for the Maryland Department of the Environment (MDE) under the bill is only expected to recover costs associated with current inspection requirements. Potential minimal increase in special fund revenues for MDE beginning in FY 2011 as more fines may be imposed for violations of State radiation control laws.

Local Effect: None.

Small Business Effect: Meaningful for dentists who wish to own and operate a dental radiology facility separate from their offices.

Analysis

Bill Summary: A facility for dental radiology is exempted from the requirement that, when using radiation for the purposes of dental diagnosis, a patient's body must be protected under the supervision of a licensed dentist.

Current Law: MDE's Radiation Machines Division regulates manufactured electronic sources of radiation to minimize the amount of unnecessary radiation exposure received by the general public. These electronic radiation sources include dental and veterinary x-ray machines, mammography (breast imaging) machines, diagnostic and therapeutic radiation machines, and other electronic radiation devices such as security screening devices used in research or industry. State regulations, which derive in part from U.S. Food and Drug Administration (FDA) statutory requirements, require that all radiation exposures be "As Low As Reasonably Achievable."

Each person owning or operating a radiation machine in a dental facility must apply for registration of the facility with MDE, complete necessary application forms, designate on application forms the individual that is responsible for radiation protection, and pay any necessary fees. Under current regulations, an annual fee of \$80 per dental radiation machine is assessed; that fee is intended to offset MDE's costs of monitoring and regulating sources of radiation within the dental facility.

All dental facilities registered with MDE are inspected every three years. During a dental inspection, MDE inspects the radiation machine for minimum patient exposure, operator protection, protective apparel availability, timer accuracy and reproducibility, exposure reproducibility, minimum filtration, and field size. Film processing is also inspected. An unannounced inspection may also be made if there is a complaint from an employee or the general public.

When MDE has reasonable grounds to believe that a person has violated the radiation control laws and regulations, it is required to issue a written complaint that specifies the provisions allegedly violated and states the alleged facts that constitute the violation. MDE is also authorized to (1) issue an order that requires the person to whom it is directed to take corrective action within a time set in the order; and (2) send a written notice that requires the alleged violator to file a written report and/or appear at a hearing regarding the allegations. If MDE issues such a notice, and after a specified time period, MDE must issue a final corrective order if it determines that a violation has occurred. MDE is required to take action to secure compliance with any final corrective order and, if the terms of such an order are violated or if a violation is not corrected within the specified time period, sue to require correction. MDE is also authorized to bring an action for an injunction against violators.

Various administrative, civil, and criminal penalties apply to violations of the State's radiation control laws and regulations. A person who fails, refuses, or neglects to comply with those laws is guilty of a misdemeanor and on conviction is subject to a fine of up to \$25,000 or imprisonment for up to one year, or both. In addition, a person who violates any radiation control provision is liable for a civil penalty of up to \$10,000 to be collected in a civil action in the circuit court for any county; each day is a separate violation. Finally, MDE is authorized to impose an administrative penalty of up to \$1,000 for each violation, up to \$50,000 total, with consideration given to several specified factors; each day is a separate violation.

A dental radiation technologist is certified by the State Board of Dental Examiners and is authorized to perform the placement or exposure of dental radiographs. A dental radiation technologist must:

- be at least 18 years of age;
- be of good moral character;
- hold a high school degree or its equivalent;
- satisfactorily complete education requirements approved by the board and established by the Maryland State Dental Association or the Maryland Dental Society;
- pass an examination administered or approved by the board for qualifying to place and expose radiographs; and
- meet any requirements established by the American Dental Association or any applicable federal standards for training and certification as a dental radiation technologist.

A certified dental radiation technologist may only practice under the direct supervision of a supervising dentist. Subject to hearing requirements, the board may discipline a certified dental radiation technologist who violates one of 15 provisions established in the Code of Maryland Regulations applicable to the State Board of Dental Examiners.

Background: According to MDE, the issuance of fines for the purpose of deterring violations of the State's radiation control laws and regulations is particularly important with respect to the dental industry. MDE began issuing such fines in May 2008. The compliance rate with State radiation control laws and regulations had averaged between 29% and 35% over the past 10 years, but increased to 49% in 2009 after MDE began issuing fines.

State Fiscal Effect: Special fund revenues to the Radiation Control Fund within MDE increase by \$80 annually for each additional dental radiation machine that is registered as

a result of the bill. However, any increase in dental radiation machine fee revenues is only expected to offset MDE's costs associated with current inspection requirements.

Civil penalties and fines collected by MDE for violations of the State's radiation control laws and regulations are also deposited into MDE's Radiation Control Fund. Administrative and civil penalty revenue assessed against all radiation sources totaled \$310,512 in fiscal 2009; although the actual amount assessed against dental facilities is unknown, MDE estimates that it likely totaled approximately \$250,000. The extent to which administrative and civil penalty revenues increase under the bill is unknown.

Small Business Effect: Allowing a dental radiation technologist to practice without the physical presence of a supervising dentist will free up a supervising dentist's time, allowing the dentist to focus on other duties.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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