

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

Senate Bill 18 (Senator Conway)
Education, Health, and Environmental Affairs

State Board of Dental Examiners - Dentists and Dental Hygienists - Grounds for Discipline

This bill adds grounds for denying a license to practice dentistry or dental hygiene to applicants as well as taking discipline against licensed dentists and licensed dental hygienists who violate specified standards of conduct.

The bill takes effect July 1, 2015.

Fiscal Summary

State Effect: The State Board of Dental Examiners can handle any increase in disciplinary action within existing budgeted resources. The bill has no material impact on State revenues.

Local Effect: The bill does not affect local government finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill adds several grounds on which the State Board of Dental Examiners may deny a license to practice dentistry to applicants and/or discipline licensed dentists, specifically: (1) physically or verbally harassing or abusing patients; (2) being habitually intoxicated; (3) accepting or paying a sum or other consideration in exchange for patient referrals except from a partner or associate in the same practice; (4) failing to exercise reasonable diligence to prevent partners, associates, employees, or contractual workers from engaging in unlawful professional conduct; (5) failing to exercise reasonable

diligence to ensure that partners, associates, employees, or contractual workers are properly licensed, permitted, certified, or recognized; (6) grossly overutilizing dental services or charging for services not rendered; (7) using pre-signed blank prescription forms; (8) presenting false documents or testimony to an administrative agency or court; (9) intimidating or influencing a person to withhold or change testimony in administrative or legal proceedings; or (10) preventing or delaying a person from making information available in administrative or law enforcement investigations.

The bill also adds several grounds on which the State Board of Dental Examiners may deny a license to practice dental hygiene and/or discipline licensed dental hygienists, specifically: (1) physically or verbally harassing or abusing patients; (2) being habitually intoxicated; (3) accepting or paying a sum or other consideration in exchange for patient referrals; (4) presenting false documents or testimony to an administrative agency or court; (5) intimidating or influencing a person to withhold or change testimony in administrative or legal proceedings; or (6) preventing or delaying a person from making information available in administrative or law enforcement investigations.

Subject to the hearing provisions in § 4-318 of the Health Occupations Article, the board may deny a general license to practice dentistry or dental hygiene, a limited license to practice dentistry or dental hygiene, or a teacher's license to practice dentistry or dental hygiene to any applicant, and may reprimand a licensed dentist or dental hygienist, place a licensee on probation, or suspend or revoke a license if they act in violation of these required standards of professional care.

Current Law: Dentists are subject to license denials as well as reprimands, probations, suspensions, and revocations on various grounds including fraudulently obtaining or using a license or fraudulently obtaining a fee; committing a felony involving moral turpitude; providing dental services while under the influence of drugs or alcohol; practicing dentistry in a professionally incompetent manner or grossly incompetent manner; having a suspended or revoked license in another state; allowing an unauthorized individual to practice dentistry or dental hygiene under their supervision; behaving dishonorably or unprofessionally; violating rules adopted by the board; and failing to comply with the U.S. Centers for Disease Control and Prevention's guidelines on universal precautions (except in extreme situations as specified), among other enumerated actions.

Dental hygienists are subject to license denials as well as reprimands, probations, suspensions, and revocations on similar grounds to dentists including fraudulently obtaining or using a license; practicing dental hygiene in an unauthorized place; behaving unprofessionally or in a grossly immoral way or violating a professional code of ethics pertaining to the dental hygiene profession; being disciplined by a licensing or other disciplinary authority of any state or country for an action that would be grounds for disciplinary action under the board's disciplinary statutes; providing dental hygiene

services under the influence of drugs or alcohol; and violating any rules adopted by the board, among other enumerated actions.

The board has the authority to impose a penalty of up to \$5,000 in addition to taking certain disciplinary actions or instead of suspending licenses to practice dentistry. Any such penalties are paid to the general fund.

Background: Under the Health Occupations Article, health occupations boards in Maryland may deny a license to applicants and discipline licensees on numerous specified grounds. These grounds vary for each profession; however, many provisions are consistent with or similar to those proposed in the bill. For example, the boards of Nursing, Physicians, Professional Counselors and Therapists, and Psychologists may discipline licensees for habitual intoxication. Likewise, the State Board of Chiropractic and Massage Therapy Examiners may do so for massage therapists, but this authority does not extend to chiropractors. The State Board of Physicians may also discipline a licensee for, among other grounds, (1) grossly overutilizing health care services; (2) paying or agreeing to pay any sum to any person for bringing or referring a patient or accepting or agreeing to accept any sum from any person for bringing or referring a patient; (3) intimidating or influencing a person to change or withhold testimony in administrative proceedings; or (4) preventing or delaying a person from making information available in disciplinary investigations. Also, the State Board of Social Work Examiners has similar grounds related to intimidating or influencing testimony and preventing or delaying disciplinary investigations.

The State Board of Dental Examiners is mandated to protect the public by regulating the practice of dentistry and dental hygiene in Maryland. Among the enumerated duties, the board issues licenses, adopts standards of practice for dentistry, investigates complaints based on alleged violations of regulations and statutes, and disciplines licensees. The board advises that there are 5,191 dentists and 3,537 dental hygienists in the State.

As noted above, dentists and dental hygienists are already subject to numerous grounds for discipline by the board. The board advises that the bill would add specificity and clarity to these grounds.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Maryland Association of County Health Officers, Department of Legislative Services

Fiscal Note History: First Reader - January 27, 2015

meI/jc

Analysis by: Sasika Subramaniam

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