

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1022

(Delegate West)

Health and Government Operations

Education, Health, and Environmental Affairs

**Health Occupations - Violations of the Maryland Dentistry Act - Penalties and
Cease and Desist Orders**

This bill increases the criminal penalties for practicing dentistry without a license and misrepresentation to the public, establishes criminal penalties for aiding or abetting the unauthorized practice of dentistry, and authorizes the State Board of Dental Examiners to levy a civil fine of up to \$50,000 for these offenses. The bill exempts a person who practices or attempts to practice dentistry without a license from these penalties if the person's license has been expired for six months or less. Additionally, the bill exempts a person who practices or attempts to practice dental hygiene without a license from the existing criminal penalty for the unauthorized practice of dental hygiene, the aiding or abetting of the unauthorized practice of dental hygiene, or misrepresentation to the public if the person's license has been expired for six months or less. The bill also increases the criminal penalty for specified provisions relating to dental laboratory work and advertising a dental appliance. The board may issue a cease and desist order for practicing dentistry without a license or for misrepresentation to the public, as well as for violations of specified provisions relating to dental laboratory work.

The bill takes effect July 1, 2018.

Fiscal Summary

State Effect: The new and enhanced civil and criminal penalty provisions likely do not have a material impact on State finances or operations. The board can handle any increase in disciplinary action within existing budgeted resources.

Local Effect: The new and enhanced criminal penalty provisions likely do not have a material impact on local government finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: A person who practices or attempts to practice dentistry without a license, aids or abets the unauthorized practice of dentistry, or misrepresents authorization to practice dentistry is guilty of a misdemeanor and on conviction is subject to a maximum penalty of either a \$5,000 fine or one year imprisonment for a first offense. The maximum penalty for a subsequent offense increases to either a \$20,000 fine *per day* or five years imprisonment. The board may also levy a civil fine of up to \$50,000. These provisions do not apply to a person whose license has been expired for six months or less.

The bill specifies that a person whose license has been expired for six months or less is not subject to the existing criminal penalty for practicing or attempting to practice dental hygiene without a license, aiding or abetting the unauthorized practice of dental hygiene, or misrepresenting authorization to practice dental hygiene.

A person who violates specified provisions relating to dental laboratory work or advertising a dental appliance is guilty of a felony (rather than a misdemeanor as under current law) and on conviction is subject to a maximum penalty of either a \$2,000 fine *per day* or two years imprisonment.

Current Law: Under the Health Occupations Article, an individual must obtain a license from the State Board of Dental Examiners in order to practice dentistry. “Practice dentistry” encompasses being a manager, proprietor, or conductor of or an operator in any place in which a dental service or operation is performed intraorally.

A dentist is subject to license denial as well as reprimand, probation, suspension, and revocation 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. A dental hygienist is subject to discipline on similar grounds.

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 a license to practice dentistry. Any such penalty is paid to the general fund.

A person who practices or attempts to practice dentistry without a license or misrepresents to the public regarding the person's authorization to practice dentistry is guilty of a misdemeanor and on conviction is subject to a maximum penalty of either a \$2,000 fine or six months imprisonment for a first offense. The maximum penalty increases for a subsequent offense to either a \$6,000 fine or one year imprisonment.

A person who unlawfully practices or attempts to practice dental hygiene, aids or abets the unauthorized practice of dental hygiene, or misrepresents to the public regarding the person's authorization to practice dental hygiene is guilty of a misdemeanor and on conviction is subject to a maximum fine of \$1,000.

A person who violates specified provisions relating to dental laboratory work or advertising a dental appliance is guilty of a misdemeanor and on conviction is subject to a maximum penalty of either a \$2,000 fine or six months imprisonment.

Background: 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. According to the Department of Health and Mental Hygiene, for fiscal 2018, the estimated number of licensed dentists is 5,143, and the estimated number of licensed dental hygienists is 3,613.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History:
mm/jc

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Third Reader - March 27, 2017

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