

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 365 (Senators West and Nathan-Pulliam)
Education, Health, and Environmental Affairs
and Judicial Proceedings

**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, categorizes the offense as a felony rather than a misdemeanor, and authorizes the State Board of Dental Examiners to levy a civil fine of up to \$50,000 for these offenses following a conviction or plea of *nolo contendere*. The bill exempts specified persons from these penalties as well as 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. 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, 2020.**

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues from enhanced civil fines. The bill's requirements can likely be handled with existing budgeted resources.

Local Effect: The bill likely does not materially affect local finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: A person who practices or attempts to practice dentistry without a license or misrepresents authorization to practice dentistry is guilty of a felony 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 following a conviction or plea of *nolo contendere*. 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 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.

Additional Information

Prior Introductions: Similar bills, HB 652 of 2018 and HB 1022 of 2017, passed the House as amended and received hearings in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken on either bill.

Cross File: HB 448 (Delegate Cullison) - Health and Government Operations.

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

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