

SENATE BILL 836

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By: **Senators Beidle and Elfreth**

Introduced and read first time: February 9, 2021

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Dental Examiners – Disciplinary Action – Disclosure**
3 **Requirements and Licensee Profiles**

4 FOR the purpose of requiring the State Board of Dental Examiners to disclose certain
5 information contained in a certain record to certain committees of certain facilities
6 and entities under certain circumstances; requiring the Board to notify certain
7 facilities or entities of certain complaints under certain circumstances; requiring the
8 Board to notify certain facilities and entities of certain action taken by the Board
9 within a certain period of time and to provide certain facilities or entities with certain
10 reports within a certain period of time; requiring the Board to provide certain
11 information to a person who has made a complaint on request; requiring the Board
12 to disclose a certain filing or notice on the Board’s website following the filing of
13 certain charges or notice of certain denial of a license application; authorizing the
14 Board to disclose any information in a certain record to a licensing or disciplinary
15 authority of another state under certain circumstances; authorizing the Board to
16 disclose any information as authorized by a certain licensee to certain persons under
17 certain circumstances; authorizing the Board to disclose certain information to
18 certain government entities under certain circumstances; requiring the Board to
19 disclose certain information to a law enforcement or prosecutorial official under
20 certain circumstances; authorizing the Board to allow certain inspection of records
21 by a person who is engaged in a research project under certain circumstances;
22 requiring the Board to provide a certain portion of a transcript to a certain person
23 who provided certain testimony; authorizing the Board to publish a certain summary
24 of allegations; prohibiting a certain summary from identifying certain persons;
25 requiring the Board to disclose certain information in a record to the Governor, the
26 Secretary of Health, or the Legislative Auditor for purposes of a certain audit and
27 prohibiting the disclosure of personally identifiable information by certain
28 individuals; requiring the Board to create and maintain certain profiles on licensees
29 that include certain information; requiring the Board to include a certain statement
30 on each licensee’s profile; requiring the Board to forward certain written copies of
31 certain profiles, under certain circumstances, and maintain a certain website for

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 certain profiles; requiring the Board to provide a certain mechanism for making
2 certain corrections to a profile; requiring the Board to include certain disciplinary
3 information in a certain profile within a certain period of time; providing for the
4 application of certain provisions of this Act; defining certain terms; and generally
5 relating to disciplinary action, disclosure requirements, licensee profiles, and the
6 State Board of Dental Examiners.

7 BY adding to

8 Article – Health Occupations

9 Section 4–322 and 4–323

10 Annotated Code of Maryland

11 (2014 Replacement Volume and 2020 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
13 That the Laws of Maryland read as follows:

14 **Article – Health Occupations**

15 **4–322.**

16 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
17 INDICATED.

18 (2) “DISCIPLINARY COMMITTEE” MEANS A COMMITTEE
19 ESTABLISHED BY THE BOARD TO REVIEW, INVESTIGATE, OR OTHERWISE ADVISE
20 THE BOARD ON DISCIPLINARY MATTERS.

21 (3) “RECORD” MEANS THE PROCEEDINGS, RECORDS, OR FILES OF
22 THE BOARD OR A DISCIPLINARY COMMITTEE.

23 (B) EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS SECTION AND §
24 4–323 OF THIS SUBTITLE, THE BOARD OR A DISCIPLINARY COMMITTEE MAY NOT
25 DISCLOSE ANY INFORMATION CONTAINED IN A RECORD.

26 (C) THIS SECTION MAY NOT BE CONSTRUED TO PREVENT OR LIMIT THE
27 DISCLOSURE OF:

28 (1) GENERAL LICENSURE INFORMATION MAINTAINED BY THE
29 BOARD, IF THE REQUEST FOR RELEASE COMPLIES WITH THE CRITERIA OF § 4–333
30 OF THE GENERAL PROVISIONS ARTICLE;

31 (2) PROFILE INFORMATION COLLECTED AND DISSEMINATED UNDER
32 § 4–323 OF THIS SUBTITLE; OR

1 **(3) PERSONAL AND OTHER IDENTIFYING INFORMATION OF A**
2 **LICENSEE, AS REQUIRED BY THE NATIONAL PRACTITIONER DATA BANK FOR**
3 **PARTICIPATION IN THE PROACTIVE DISCLOSURE SERVICE.**

4 **(D) THE BOARD SHALL DISCLOSE ANY INFORMATION CONTAINED IN A**
5 **RECORD TO A DISCIPLINARY COMMITTEE OF A FACILITY WHERE THE LICENSEE**
6 **PRACTICES OR AN ENTITY THAT EMPLOYS THE LICENSEE IF:**

7 **(1) THE COMMITTEE REQUESTS THE INFORMATION IN WRITING;**

8 **(2) THE BOARD HAS ISSUED AN ORDER AS TO THE LICENSEE ON**
9 **WHOM THE INFORMATION IS REQUESTED; AND**

10 **(3) THE BOARD DETERMINES THAT THE INFORMATION REQUESTED**
11 **IS NECESSARY FOR AN INVESTIGATION OR ACTION OF THE DISCIPLINARY**
12 **COMMITTEE AS TO THE PRACTICE OF A LICENSEE AT THE FACILITY OR FOR THE**
13 **ENTITY.**

14 **(E) (1) THE BOARD SHALL NOTIFY ALL FACILITIES WHERE A LICENSEE**
15 **PRACTICES OR ENTITIES THAT EMPLOY A LICENSEE OF A COMPLAINT FILED**
16 **AGAINST THAT LICENSEE IF:**

17 **(I) THE BOARD DETERMINES, IN ITS DISCRETION, THAT THE**
18 **FACILITY OR ENTITY SHOULD BE INFORMED ABOUT THE COMPLAINT; OR**

19 **(II) THE NATURE OF THE COMPLAINT SUGGESTS A REASONABLE**
20 **POSSIBILITY OF AN IMMINENT THREAT TO PATIENT SAFETY.**

21 **(2) THE BOARD SHALL DISCLOSE ANY INFORMATION RELATING TO A**
22 **LICENSEE'S COMPETENCY TO PRACTICE DENTISTRY OR DENTAL HYGIENE**
23 **CONTAINED IN A RECORD TO A COMMITTEE OF A FACILITY WHERE A LICENSEE**
24 **PRACTICES OR AN ENTITY THAT EMPLOYS A LICENSEE IF:**

25 **(I) THE COMMITTEE IS CONCERNED WITH DISCIPLINE AND**
26 **REQUESTS THE INFORMATION IN WRITING; AND**

27 **(II) THE BOARD HAS RECEIVED A COMPLAINT AS DESCRIBED IN**
28 **PARAGRAPH (1) OF THIS SUBSECTION ON THE LICENSEE ON WHOM THE**
29 **INFORMATION IS REQUESTED.**

30 **(3) THE BOARD SHALL, AFTER FORMAL ACTION IS TAKEN UNDER §**
31 **4-315 OF THIS SUBTITLE, NOTIFY THE FACILITY WHERE THE LICENSEE PRACTICES**
32 **OR THE ENTITY THAT EMPLOYS THE LICENSEE OF ITS FORMAL ACTION WITHIN 10**

1 DAYS AFTER THE ACTION IS TAKEN AND SHALL PROVIDE THE FACILITY OR ENTITY
2 WITH PERIODIC REPORTS AS TO ENFORCEMENT OR MONITORING OF A FORMAL
3 DISCIPLINARY ORDER AGAINST A LICENSEE WITHIN 10 DAYS AFTER RECEIPT OF
4 THOSE REPORTS.

5 (F) ON THE REQUEST OF A PERSON WHO HAS MADE A COMPLAINT TO THE
6 BOARD REGARDING A LICENSEE, THE BOARD SHALL PROVIDE THE PERSON WITH
7 INFORMATION ON THE STATUS OF THE COMPLAINT.

8 (G) FOLLOWING THE FILING OF CHARGES OR NOTICE OF INITIAL DENIAL OF
9 A LICENSE APPLICATION, THE BOARD SHALL DISCLOSE THE FILING OR NOTICE TO
10 THE PUBLIC ON THE BOARD'S WEBSITE.

11 (H) THE BOARD MAY DISCLOSE ANY INFORMATION CONTAINED IN A
12 RECORD TO A LICENSING OR DISCIPLINARY AUTHORITY OF ANOTHER STATE IF:

13 (1) THE LICENSING OR DISCIPLINARY AUTHORITY OF ANOTHER
14 STATE THAT REGULATES LICENSEES IN THAT STATE REQUESTS THE INFORMATION
15 IN WRITING; AND

16 (2) THE DISCLOSURE OF ANY INFORMATION IS LIMITED TO THE
17 PENDENCY OF AN ALLEGATION OF A GROUND FOR DISCIPLINARY OR OTHER ACTION
18 BY THE BOARD UNTIL:

19 (I) THE BOARD HAS PASSED AN ORDER UNDER § 4-315 OF THIS
20 SUBTITLE; OR

21 (II) A LICENSEE ON WHOM THE INFORMATION IS REQUESTED
22 AUTHORIZES A DISCLOSURE AS TO THE FACTS OF AN ALLEGATION OR THE RESULTS
23 OF AN INVESTIGATION BEFORE THE BOARD.

24 (I) THE BOARD MAY DISCLOSE ANY INFORMATION CONTAINED IN A
25 RECORD TO A PERSON IF:

26 (1) A LICENSEE ON WHOM ANY INFORMATION IS REQUESTED
27 AUTHORIZES THE PERSON TO RECEIVE THE DISCLOSURE;

28 (2) THE PERSON REQUESTS THE INFORMATION IN WRITING; AND

29 (3) THE AUTHORIZATION FOR THE DISCLOSURE IS IN WRITING.

30 (J) THE BOARD MAY DISCLOSE ANY INFORMATION CONTAINED IN A
31 RECORD TO THE DEPARTMENT, THE SECRETARY OF THE U.S. DEPARTMENT OF

1 HEALTH AND HUMAN SERVICES OR THE SECRETARY'S DESIGNEE, OR ANY HEALTH
2 OCCUPATIONAL REGULATORY BOARD IF:

3 (1) (I) THE DEPARTMENT OR HEALTH OCCUPATIONAL
4 REGULATORY BOARD REQUESTS THE INFORMATION IN WRITING; OR

5 (II) THE SECRETARY OF THE U.S. DEPARTMENT OF HEALTH
6 AND HUMAN SERVICES OR THE SECRETARY'S DESIGNEE IS ENTITLED TO RECEIVE
7 THE INFORMATION OR HAVE ACCESS TO THE INFORMATION UNDER 42 U.S.C. §
8 1396R-2;

9 (2) (I) THE BOARD HAS ISSUED AN ORDER UNDER § 4-315 OF THIS
10 SUBTITLE; OR

11 (II) AN ALLEGATION IS PENDING BEFORE THE BOARD; AND

12 (3) THE BOARD DETERMINES THAT THE REQUESTED INFORMATION
13 IS NECESSARY FOR THE PROPER CONDUCT OF THE BUSINESS OF THAT ENTITY OR
14 BOARD.

15 (K) IF THE BOARD DETERMINES THAT THE INFORMATION CONTAINED IN A
16 RECORD CONCERNS POSSIBLE CRIMINAL ACTIVITY, THE BOARD SHALL DISCLOSE
17 THE INFORMATION TO A LAW ENFORCEMENT OR PROSECUTORIAL OFFICIAL.

18 (L) THE BOARD MAY ALLOW INSPECTION OF RECORDS FOR WHICH
19 INSPECTION OTHERWISE IS NOT AUTHORIZED BY A PERSON WHO IS ENGAGED IN A
20 RESEARCH PROJECT IF:

21 (1) THE RESEARCHER SUBMITS TO THE EXECUTIVE DIRECTOR AND
22 THE BOARD APPROVES A WRITTEN REQUEST THAT:

23 (I) DESCRIBES THE PURPOSE OF THE RESEARCH PROJECT;

24 (II) DESCRIBES THE INTENT, IF ANY, TO PUBLISH THE
25 FINDINGS;

26 (III) DESCRIBES THE NATURE OF THE REQUESTED PERSONAL
27 RECORDS;

28 (IV) DESCRIBES THE SAFEGUARDS THAT THE RESEARCHER
29 WOULD TAKE TO PROTECT THE IDENTITY OF THE PERSONS IN INTEREST; AND

1 **(V) STATES THAT PERSONS IN INTEREST WILL NOT BE**
2 **CONTACTED UNLESS THE EXECUTIVE DIRECTOR APPROVES AND MONITORS THE**
3 **CONTACT;**

4 **(2) THE EXECUTIVE DIRECTOR IS SATISFIED THAT THE PROPOSED**
5 **SAFEGUARDS WILL PREVENT THE DISCLOSURE OF THE IDENTITY OF PERSONS IN**
6 **INTEREST; AND**

7 **(3) THE RESEARCHER MAKES AN AGREEMENT WITH THE EXECUTIVE**
8 **DIRECTOR THAT:**

9 **(I) DEFINES THE SCOPE OF THE RESEARCH PROJECT;**

10 **(II) SETS OUT THE SAFEGUARDS FOR PROTECTING THE**
11 **IDENTITY OF THE PERSONS IN INTEREST; AND**

12 **(III) STATES THAT A BREACH OF ANY CONDITION OF THE**
13 **AGREEMENT IS A BREACH OF CONTRACT.**

14 **(M) ON THE REQUEST OF A PERSON WHO HAS TESTIFIED IN A BOARD OR**
15 **OFFICE OF ADMINISTRATIVE HEARINGS PROCEEDING, THE BOARD SHALL PROVIDE**
16 **TO THE PERSON WHO TESTIFIED A COPY OF THE PORTION OF THE TRANSCRIPT OF**
17 **THAT PERSON'S TESTIMONY.**

18 **(N) (1) THE BOARD MAY PUBLISH A SUMMARY OF ANY ALLEGATIONS OF**
19 **GROUND FOR DISCIPLINARY OR OTHER ACTION.**

20 **(2) A SUMMARY MAY NOT IDENTIFY:**

21 **(I) ANY PERSON WHO MAKES AN ALLEGATION TO THE BOARD**
22 **OR ANY OF ITS INVESTIGATORY BODIES;**

23 **(II) A LICENSEE ABOUT WHOM AN ALLEGATION IS MADE; OR**

24 **(III) A WITNESS IN AN INVESTIGATION OR A PROCEEDING**
25 **BEFORE THE BOARD OR ANY OF ITS INVESTIGATORY BODIES.**

26 **(O) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE BOARD**
27 **SHALL DISCLOSE INFORMATION IN A RECORD ON THE REQUEST OF THE GOVERNOR,**
28 **THE SECRETARY, OR THE LEGISLATIVE AUDITOR, IN ACCORDANCE WITH §**
29 **2-1223(A) OF THE STATE GOVERNMENT ARTICLE.**

1 **(2) THE GOVERNOR, THE SECRETARY, OR THE LEGISLATIVE**
2 **AUDITOR, OR ANY OF THEIR EMPLOYEES MAY NOT DISCLOSE PERSONALLY**
3 **IDENTIFIABLE INFORMATION FROM ANY OF THESE RECORDS THAT ARE OTHERWISE**
4 **CONFIDENTIAL BY LAW.**

5 **(P) THIS SECTION DOES NOT APPLY TO:**

6 **(1) ANY DISCLOSURE OF A RECORD BY THE BOARD TO A**
7 **DISCIPLINARY COMMITTEE OR ANY OF ITS OTHER INVESTIGATORY BODIES; OR**

8 **(2) A LICENSEE WHO HAS BEEN CHARGED UNDER THIS TITLE OR A**
9 **PARTY TO A PROCEEDING BEFORE THE BOARD WHO CLAIMS TO BE AGGRIEVED BY**
10 **THE DECISION OF THE BOARD OR THE DISCIPLINARY PANEL.**

11 **(Q) IF ANY INFORMATION CONTAINED IN ANY DENTAL RECORD OR ANY**
12 **OTHER EXHIBIT IS OTHERWISE OPEN FOR DISCLOSURE UNDER LAW, THE USE OF**
13 **THAT DOCUMENT OR EXHIBIT IN ANY RECORD OF THE BOARD, A DISCIPLINARY**
14 **COMMITTEE, OR ANY OF ITS OTHER INVESTIGATORY BODIES DOES NOT PREVENT ITS**
15 **DISCLOSURE IN ANY OTHER PROCEEDING.**

16 **4-323.**

17 **(A) THE BOARD SHALL CREATE AND MAINTAIN A PUBLIC INDIVIDUAL**
18 **PROFILE ON EACH LICENSEE THAT INCLUDES THE FOLLOWING INFORMATION:**

19 **(1) A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE,**
20 **INCLUDING A COPY OF THE CHARGING DOCUMENT, UNTIL THE BOARD HAS TAKEN**
21 **ACTION UNDER § 4-315 OF THIS SUBTITLE BASED ON THE CHARGES OR HAS**
22 **RESCINDED THE CHARGES;**

23 **(2) A DESCRIPTION OF ANY DISCIPLINARY ACTION TAKEN BY THE**
24 **BOARD AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD THAT**
25 **INCLUDES A COPY OF THE PUBLIC ORDER;**

26 **(3) A DESCRIPTION IN SUMMARY FORM OF ANY FINAL DISCIPLINARY**
27 **ACTION TAKEN BY A LICENSING BOARD IN ANY OTHER STATE OR JURISDICTION**
28 **AGAINST THE LICENSEE WITHIN THE MOST RECENT 10-YEAR PERIOD;**

29 **(4) A DESCRIPTION OF A CONVICTION OR ENTRY OF A PLEA OF**
30 **GUILTY OR NOLO CONTENDERE BY THE LICENSEE FOR A CRIME INVOLVING MORAL**
31 **TURPITUDE REPORTED TO THE BOARD UNDER § 4-604 OF THIS TITLE; AND**

1 **(5) AS REPORTED TO THE BOARD BY THE LICENSEE, EDUCATION AND**
2 **PRACTICE INFORMATION ABOUT THE LICENSEE INCLUDING:**

3 **(I) THE NAME OF ANY DENTAL OR DENTAL HYGIENIST SCHOOL**
4 **THAT THE LICENSEE ATTENDED AND THE DATE ON WHICH THE LICENSEE**
5 **GRADUATED FROM THE SCHOOL;**

6 **(II) A DESCRIPTION OF ANY INTERNSHIP AND RESIDENCY**
7 **TRAINING;**

8 **(III) A DESCRIPTION OF ANY SPECIALTY BOARD CERTIFICATION**
9 **BY A NATIONAL CERTIFYING BODY RECOGNIZED BY THE BOARD;**

10 **(IV) THE NAME OF ANY OFFICE OR FACILITY WHERE THE**
11 **LICENSEE PRACTICES;**

12 **(V) WHETHER THE LICENSEE PARTICIPATES IN THE**
13 **MARYLAND HEALTHY SMILES PROGRAM OR THE MARYLAND MEDICAL**
14 **ASSISTANCE PROGRAM ADULT DENTAL PILOT PROGRAM OR A SUCCESSOR**
15 **PROGRAM;**

16 **(VI) WHETHER THE LICENSEE MAINTAINS DENTAL**
17 **PROFESSIONAL LIABILITY INSURANCE; AND**

18 **(VII) THE NUMBER OF DENTAL MALPRACTICE FINAL COURT**
19 **JUDGMENTS AND ARBITRATION AWARDS AGAINST THE LICENSEE WITHIN THE MOST**
20 **RECENT 10-YEAR PERIOD.**

21 **(B) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (A) OF THIS**
22 **SECTION, THE BOARD SHALL INCLUDE A STATEMENT ON EACH LICENSEE'S PROFILE**
23 **OF INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER WHEN**
24 **VIEWING A LICENSEE'S PROFILE, INCLUDING FACTORS TO CONSIDER WHEN**
25 **EVALUATING A LICENSEE'S MALPRACTICE DATA, AND A DISCLAIMER STATING THAT**
26 **A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING OF GUILT BY A**
27 **DISCIPLINARY PANEL.**

28 **(C) THE BOARD:**

29 **(1) ON RECEIPT OF A WRITTEN REQUEST FOR A LICENSEE'S PROFILE**
30 **FROM ANY PERSON, SHALL FORWARD A WRITTEN COPY OF THE PROFILE TO THE**
31 **PERSON; AND**

1 **(2) SHALL MAINTAIN A WEBSITE THAT SERVES AS A SINGLE POINT OF**
2 **ENTRY WHERE ALL LICENSEE PROFILE INFORMATION IS AVAILABLE TO THE PUBLIC.**

3 **(D) THE BOARD SHALL PROVIDE A MECHANISM FOR THE NOTIFICATION**
4 **AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A LICENSEE'S**
5 **PROFILE.**

6 **(E) THE BOARD SHALL INCLUDE INFORMATION RELATING TO CHARGES**
7 **FILED AGAINST A LICENSEE BY THE BOARD AND ANY FINAL DISCIPLINARY ACTION**
8 **TAKEN BY THE BOARD AGAINST A LICENSEE IN THE LICENSEE'S PROFILE WITHIN 10**
9 **DAYS AFTER THE CHARGES ARE FILED OR THE ACTION BECOMES FINAL.**

10 **(F) THIS SECTION DOES NOT LIMIT THE BOARD'S AUTHORITY TO DISCLOSE**
11 **INFORMATION AS REQUIRED UNDER § 4-322 OF THIS SUBTITLE.**

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2021.