



Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

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**Maryland State Board of Dental Examiners**

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**2020 SESSION**

**POSITION PAPER**

**BILL NO:** SB 297

**COMMITTEE:** Education, Health, and Environmental Affairs

**POSITION:** Oppose

**TITLE:** Administrative Procedure Act - Dispositions and Summary Suspensions - Time Periods

**BILL ANALYSIS:** The bill requires the Office of Administrative Hearings, and an agency of the State, such as the Dental Board, to dispose of a contested case within 90 days of the conclusion of the evidentiary hearing. If the agency or the Office does not dispose of the case within that period, the respondent may provide written notice to the Office or agency, and the Office or agency is then granted an additional 30 days to dispose of the case. If not so disposed, the case is deemed in favor of the respondent. In addition, the bill provides that if a unit such as the Dental Board summarily suspends a license, the unit shall issue a final order on the summary suspension within 30 days of the summary suspension.

**POSITION AND RATIONALE:** The Dental Board opposes SB 297. The 30-day language concerning summary suspension is troublesome. A dentist's license is summarily suspended only if the Board finds that the public health, safety, or welfare of the public imperatively requires emergency action. In the majority of cases, a license is summarily suspended if a dentist is guilty of serious violations of the Centers for Disease Control and Prevention's guidelines thus placing the dentist's patients at a substantial risk for contraction of disease. This action is not taken lightly by the Board and comes only after a review of a patient's complaint and a thorough review of an inspector's report. Licenses are not suspended for trivial violations. In addition, licensees are summarily suspended when there is substantial evidence of child abuse or substance abuse.

If a license is suspended, the dentist is given an opportunity to be heard by the Board. The hearing may be scheduled at the next regularly scheduled Board meeting, but not to exceed 30 days from the date of the request. If a dentist does not request a hearing for several days after suspension, the hearing may be held several weeks after the suspension, thus providing the Board with little time to draft, review, and issue a final order. If the dentist's request for a hearing

comes later than 30 days after the suspension, the Board is in immediate violation of the law through no fault of its own. The wrongdoer's timing of a request for hearing could therefore be used as a tool against the Board and ultimately the public which it serves.

Alternatively, a Board could prejudice the due process rights of the respondent if a final order must be issued within 30 days of the summary suspension. When a Board issues an order of summary suspension it is prepared to move forward with its case. The respondent on the other hand is not, and in the vast majority of cases must take corrective measures some of them substantial, in order to come into compliance and regain their license. The process of lifting the summary suspension when there are CDC violations includes scheduling and conducting a physical re-inspection of the dental office. If the summary suspension hearing is set in at the next regularly scheduled Board meeting, the dentist may not be provided with sufficient time to prepare. There are no opportunities to request a continuance. On occasion the offending dentist wishes to combine the summary suspension hearing with the hearing on the underlying charges. Even a 30-day period for the respondent to cure the violations, prepare for a hearing, including conducting discovery, and having the Board conduct the hearing and issuing a final order will prove insufficient.

Note also that there are some health occupations Boards that do not meet monthly and therefore it would not be possible for them to comply in the absence of a specially scheduled meeting.

For these reasons the State Board of Dental Examiners requests that SB 297 receive an unfavorable report.

*The opinion of the Maryland State Board of Dental Examiners expressed in this oppose position paper does not necessarily reflect that of the Department of Health or the Administration.*

I hope that this information is useful. If you would like to discuss this further, please contact Dr. James Goldsmith, Board President at 301-367-2352, [jgoldsm217@comcast.net](mailto:jgoldsm217@comcast.net), or Dr. Arpana Verma, the Board's Legislative Committee Chair at 240-498-8159, [asverma93@gmail.com](mailto:asverma93@gmail.com). In addition, the Board's Executive Director, Mr. Frank McLaughlin, may be reached at 443-878-5253, [frank.maclaughlin@maryland.gov](mailto:frank.maclaughlin@maryland.gov).