



SB 836-State Board of Dental Examiners-Disciplinary Action - Disclosure Requirements and Licensee Profiles

The Maryland State Dental Association understands and respects the Sponsors' motivation for introducing SB 836. There was an egregious case in Anne Arundel County involving a dentist providing incompetent dental care to a number of patients over the course of several years. Many of his patients were harmed physically, emotionally and financially. The reasons why this dentist did not lose his license more promptly can be addressed by the State Board, but it is clear that SB 836 is an effort to assure that in the future such grossly incompetent practitioners are made known to Maryland dental patients. However, a balance always has to be maintained between a patient's right to know and a provider's rights of due process. It is in trying to strike this balance that some provisions of SB 836 raise concerns

Several sections may require disclosure of information at a point where it appears that no conclusive determinations have been made whether disciplinary action is warranted. In many instances MSDA suggests that disclosure is only appropriate when a final order has been issued. SB 836 requires disclosure of ANY Information contained in a record to a facility or entity where a licensee practices, regardless of whether the information is relevant or credible. The requirement should be limited to disclosure of all relevant information concerning an order issued by the Board. Notification of a complaint to facilities where the licensee practices should require both that the Board determine that the facility should be informed AND that the nature of the complaint suggests a reasonable possibility of an imminent threat to patient safety. SB 836 requires disclosure if either criterium is met. The notices of charges to be placed on the Board's website should be limited to formal charges by the Board so as not to allow an inference that this provision includes complaint allegations by a 3rd party. Finally, the provisions of 4-322 (L), which provide for disclosure of information to a person engaged in a research project, should be deleted.

§4-323 requires the inclusion of some information in an individual's profile that may be inappropriate, and requires other information that will change frequently causing the need to constantly update the profile. Also, the education and practice information required to be included in a licensee's profile should be deleted except for the number of dental malpractice judgments and arbitration awards against the licensee within the past 10 years.

A significant part of MSDA's concerns relate to the fact that the bill drafters tried to model this bill after provisions in the Maryland Medical Practice Act, Title 13 of the Health Occupations Article. This approach is at best difficult. Dentistry has fewer licensees, a smaller number of dentists practice in facilities, many work in multiple practices and their practice affiliations change with more frequency. The Board of Dental Examiners has a much smaller

staff than the State Board of Physicians, and a budget of about 20% of the Physicians Board's budget. Maintaining the accuracy of educational and practice profile information is both difficult and expensive. It requires sufficient staff and an adequate budget. In short, the provisions relating to the licensee profiles need to be closely scrutinized and substantially revised, and not merely copy the Maryland Medical Practice Act.

The Maryland State Dental Association respectfully requests that in its deliberations the Committee give due consideration to these concerns.

Respectfully submitted for MSDA by:
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