

SB 611 Testimony 20220216_16280715.pdf

Uploaded by: Pamela Beidle

Position: FAV

PAMELA G. BEIDLE
Legislative District 32
Anne Arundel County

Finance Committee

Vice Chair
Executive Nominations Committee



James Senate Office Building
11 Bladen Street, Room 202
Annapolis, Maryland 21401
410-841-3593 · 301-858-3593
800-492-7122 Ext. 3593
Pamela.Beidle@senate.state.md.us

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

February 17, 2022

Senate Bill 611
State Board of Dental Examiners – Membership,
Training and Disciplinary Process – Revisions

Chairman Pinsky, Vice Chair Kagan and members of the EHEA committee,

Thank you for hearing Senate Bill 611, which concerns the State Dental Board. I greatly appreciate your consideration. And I appreciate your colleague, Senator Reilly's cosponsoring this bill with me.

There has been a significant amount of discussion this Session about broadly improving the Health Professional Boards and Commissions. They have challenges that were, like all organizations, undoubtedly exacerbated by the COVID 19 pandemic. The Secretary of Health has been central to that discussion, but so have my colleagues. Vice Chair Kagan has introduced Senate Bill 899 that reforms staffing and infrastructure of all the boards, which you will hear next week. I support Senator Kagan's bill and consider the one before you today to be complimentary of the Vice Chair's leadership on this issue. Additionally, Senators Watson and Carter have Senate Bill 555, which you heard last Thursday that requires reporting on the disciplinary activities of all the Boards. Similarly, I view the bill before you as complimentary of our newest colleague's legislation.

I had legislation before you last year that was amended to be a report from the Dental Board. Delivered to the legislature in November, there was a consistent theme throughout that report that, fairly, noted that the Board needs more staff and resources. I fully support more resources so that the Board can optimally perform its duties. When testifying before Budget & Taxation February 4, Secretary Schrader offered the support of General Fund revenues in furtherance of Senator Kagan's bill. I applaud the Secretary's statement, and would fully support such a supplemental appropriation from the Administration for supporting the boards.

You'll hear more from my panelists, but the bill before you would streamline the way the Dental Board is constituted, provide for defined due process entitlements when a practitioner is before the Board, and legal education for the Board to assist in the fair and effective administration of the new rights and responsibilities.

At the end of the day, the Health Professional Boards and Commissions exist to ensure the delivery to Marylander's World-quality healthcare, and to protect of our constituents. I believe it's in that spirit that all of these bills have been introduced.

I request a favorable Committee report of the Committee.

Celeste_Ziara DDS SB_611 FWA.pdf

Uploaded by: Celeste Ziara

Position: FWA

February 17, 2022

Testimony on: **SB 611** - State Board of Dental Examiners – Membership, Training, and Disciplinary Processes – Revisions

Position: **Favorable with Amendments**

Members of the Senate Education, Health, and Environmental Affairs Committee,

As you consider SB 611, I respectfully request that you adopt the **Maryland State Dental Association (MSDA) amendments** and vote to give this legislation a **Favorable with Amendments** Committee report.

Serving as the Director of Outreach for Chesapeake Healthcare in Princess Anne, I have worked at our Federally Qualified Health Center for over thirteen years. I have also been an active member of organized dentistry on the Lower Eastern Shore for nearly thirty years. I have a passion for dentistry and care deeply about ensuring that our licensing body, the Maryland State Board of Dental Examiners, operates effectively and efficiently while ensuring that dentists, dental hygienists, and radiation-certified dental assistants practicing dentistry across Maryland never cease to uphold the high standards expected of those working within our profession.

The Dental Practice Act plays an integral role in the regulation of dentistry in Maryland and outlines the nomination process for members of the State Board. While I support the intent of SB 611, from an operational perspective, I fear that if this bill were to be enacted in its original form, provisions of SB 611 may violate HIPPA regulations that are in place to safeguard patient privacy and respect the confidential nature of a patient-provider relationship.

Below, I have outlined four of my foremost concerns relating to the Board nomination process, Board Member training, the timeliness of Board decisions, and the summary suspension of licenses.

Nomination Process

The Maryland State Board of Dental Examiners has been observed to be one of the state's fairest and most democratic health boards. Currently, dentist nominees must earn the trust and support of their peers as Board member nominations must be supported by at least ten other Maryland dentists before the Governor considers their nomination. As written, SB 611 introduces an element of confusion to this process and even restricts who may be considered for membership. Furthermore, certain provisions of SB 611 may violate HIPPA by requiring that at least one member be a current or former Medicaid recipient. Furthermore, without an Adult Dental Medicaid program in Maryland, very few people are even eligible for this position.

Training

The concept of mandatory training for all Health Occupation Board members is laudable, yet due to associated costs, training should be required once per term rather than once a year.

Timeliness of Board Decisions

It has been noted that final decisions of the Board have often been rendered in a less-than-timely fashion. The MSDA Amendments support the establishment of guidelines that will ensure that Board decisions are rendered promptly. However, these guidelines must provide reasonable allowances due to unexpected delays beyond the Board's control.

Summary Suspensions

While all licensees whose right to practice has been summarily suspended should be afforded due process, the provisions of SB 611 are both cumbersome and confusing. Contrary to the bill's intentions, in practice, the portions of this legislation relating to summary suspension of a licensee's right to practice would severely hinder the Board's ability to take action and swiftly suspend the license of an incompetent or reckless practitioner. As written, SB 611 would also impede the Board's ability to stop unsanitary or infection-prone practices in an expedient manner or to take timely action as a result of prescriptive or opioid abuses.

The proposed MSDA amendments help to remedy each of these concerns and will help to make SB 611 a more impactful bill as we seek to ensure licensees uphold the high standards expected of those within the field of dentistry.

Thank you for your consideration of this legislation and the MSDA amendments. I request a Favorable with Amendments report for SB 611.

Respectfully submitted,

A handwritten signature in black ink on a light gray background. The signature reads "Celeste Ziara DDS" in a cursive script.

Celeste Ziara, DDS

czyara@chesapeakehc.org
work mobile: 443-614-2594

SB611_CharlesDoring_FavorableAmendments.pdf

Uploaded by: Charles Doring

Position: FWA

Written Testimony in Support with Amendments of 2022 SB 611

State Board of Dental Examiners, Membership, Training, Disciplinary Processes

Dr. Charles Doring

Dear members of the Senate Committee. My name is Dr. Charles Doring and I am providing written testimony in support of SB 611 with amendments as outlined in testimony provided by the Maryland State Dental Association. I am a general dentist in Montgomery County and a Maryland Healthy Smiles (Medicaid) provider. I am also a Member of the Maryland Healthy Smiles Provider Advisory Board and a member of Maryland Task Force on Oral Health.

Many suggestions proposed in SB 611 have merit and with amendments, I hope we can proceed with legislation that improves the function of the Maryland State Board of Dental Examiners (MSBDE). I will focus my comments on the Membership changes called for in HB 611 and why I oppose changing the current nomination process. Currently, the MSBDE is composed of 9 dentists, 4 dental hygienists, and 3 consumer members, all appointed by the Governor and confirmed by the Maryland Senate. Appointments should be based on fairness and diversity. In the case of dentist members of the MSBDE, diversity needs to include gender, ethnicity, geographic location and expertise in dental specialty. The National Commission on Recognition of Dental Specialties and Certifying Boards currently recognize 12 dental specialties. Of the 9 current board dentists, 4 are female, 3 are non-white ethnicity, 3 are dental specialists, and 2 have or had associations with Dental Service Organization. Although increased diversity and inclusion in any group and association is of utmost importance, SB 611 board nomination changes proposed by the non-dentist administrators are not going to accomplish the goals of any health care provider board, "Protection of the Public" for the following reasons:

1). SB 611 unamended, eliminates the process of 10 Maryland licensed dentist signatures (or 10 dental hygienist signatures) required for MSBDE nomination. The bill states any dental organization representing 25 licensed dentists or more may nominate a dentist for the board but eliminates any signatures by other dental members to validate that nomination. In essence, a non-dentist administrator for such an organization may nominate an individual without any licensee signatures or member approval.

2). SB 611 unamended eliminates a voting ballot and an important vetting process by one's peers. Fellow dentists will support candidates who are ethical, are un-bias in opinion, and will uphold justice. The balloting provides the Governor's office important information on the nomination by fellow dentists (and dental hygienists). All nominated names are forwarded to the Governor's office for further vetting and ultimate appointment to the MSBDE.

3). SB 611 unamended requires inclusion of "each of business model used by dentists" to be represented on the MSBDE. How is that defined and what does that include? Currently there are a large number of business models, many more than the 9 dental board slots available. And should "business"

philosophy enter into dental ethics and justice? To be clear, the American Dental Association and Maryland State Dental Association represent all dentists regardless of business model or practice type. Dentists are dentists. When I meet a new dentist, I generally don't ask "what business model do you use?" The MSBDE/Health Department does not collect data on "business models". Dentists tend to change practice locations and business models throughout their career. If a dentist is appointed to the MSBDE under one business model and then changes business models, do they have to resign from the MSBDE? Protection of the public is the charge of the MSBDE, not protection of "business models".

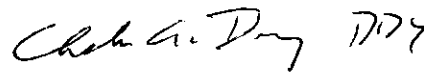
4). SB 611 unamended requires that at least one of the three consumer members must be receiving, or have received, dental care through Maryland Medicaid. Although that Medicaid experience would be nice, it is practically impossible at this time for there is currently no adult dental Medicaid benefit in Maryland. (Please reference SB 150 Adult Dental Medicaid Coverage.) Such required disclosures may be viewed as a HIPAA violation.

5). SB 611 unamended eliminates nominations from state dental organizations affiliated with a national organization. This would eliminate the potential input from specialty or ethnic organizations such as traditional Hispanic-Latino dental associations and African-American dental societies. At a time when we need more diversity, let's not exclude important nomination input.

If the nomination changes are in an attempt to improve fairness and adjudication processes of the MSBDE, I would suggest those changes could be accomplished with initial and periodic mandatory training of all MSBDE by the Maryland Office of the State Attorney General office as outlined in the proposed amendments submitted by the Maryland State Dental Association.

Thank you for your consideration and ask that SB 611 be amended and given a favorable report.

Sincerely,

A handwritten signature in cursive script that reads "Charles A. Doring DDS". The signature is written in black ink and is positioned to the right of the typed name.

Charles A. Doring DDS

SB 611 - Interlineated Amendments.pdf

Uploaded by: Daniel Doherty

Position: FWA

Amendments submitted By Daniel T. Doherty, Jr on behalf of MSDA

SENATE BILL 611

J2

2lr1264

CF 2lr218

By: **Senators Beidle, Elfreth, and Reilly**

Introduced and read first time: February 2, 2022

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

AN ACT concerning

State Board of Dental Examiners – ~~Membership~~, Training, and Disciplinary Processes – Revisions

FOR the purpose of altering provisions of the Dental Practice Act related to ~~nominations and qualifications of members of the State Board of Dental Examiners~~; establishing Board member training requirements; establishing and codifying Board disciplinary processes related to the issuance of final decisions and summary suspensions of licenses; and generally relating to the State Board of Dental Examiners.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 4–202(a) and (b), 4–205(c), and 4–318
Annotated Code of Maryland
(2021 Replacement Volume)

BY adding to
Article – Health Occupations
Section 4–318.1
Annotated Code of Maryland
(2021 Replacement Volume)

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

Article – Health Occupations

4–202.

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(a) (1) The Board consists of 16 members.

(2) Of the 16 Board members:

(i) 9 shall be licensed dentists;

1 (ii) 4 shall be licensed dental hygienists; and

2 (iii) 3 shall be consumer members.

3 ~~(3) OF THE 9 LICENSED DENTIST MEMBERS:~~

4 ~~(i) EACH OF THE BUSINESS MODELS USED BY DENTISTS IN THE~~
5 ~~STATE MUST BE REPRESENTED; AND~~

6 ~~(ii) AT LEAST 2 MUST SERVE PATIENTS WHO RECEIVE DENTAL~~
7 ~~SERVICES THROUGH THE MARYLAND MEDICAL ASSISTANCE PROGRAM.~~

8 ~~(4) OF THE 3 CONSUMER MEMBERS, TO THE EXTENT PRACTICABLE, 1 MAY~~
9 ~~BE RECEIVING, OR HAVE RECEIVED, DENTAL CARE THROUGH THE MARYLAND~~
10 ~~MEDICAL ASSISTANCE PROGRAM.~~
11

12 ~~{(3)}-(5)~~ (i) Subject to subsection (b)(1) of this section, the Governor shall appoint the dentist
Board members, with the advice of the Secretary and the advice and consent of the Senate,
from a list of names submitted to the Governor by the Board.

15 (ii) The number of names on the list for one vacancy shall be at least four names, for two
vacancies at least three names for each vacancy, and for three or more vacancies at least two
names for each vacancy.

18 ~~{(4)}-(6)~~ (i) Subject to subsection (b)(2) of this section, the Governor shall appoint the dental
hygienist Board members, with the advice of the Secretary and the advice and consent of the
Senate, from a list of names submitted to the Governor by the Board.

22 (ii) The number of names on the list shall be ~~AT LEAST~~ four times the number of vacancies.

24 ~~{(5)}-(7)~~ The Governor shall appoint the consumer members with the
25 advice of the Secretary and the advice and consent of the Senate.

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26 ~~{(6)}~~ ~~(8)~~ To the extent practicable, the members appointed to the Board shall reasonably reflect the geographic, racial, ethnic, cultural, and gender diversity of the State.

29 (b) (1) For each licensed dentist vacancy, the Board shall:

30 (i) Send by electronic mail or regular mail a solicitation for
31 nominations to fill the vacancy to:

1 1. Each dentist licensed by the Board; ~~{and}~~

2 2. Each State dental organization affiliated with a national
3 organization; and

4 ~~3. ANY OTHER PROFESSIONAL DENTAL ORGANIZATION~~
5 ~~THAT REPRESENTS AT LEAST 25 LICENSED DENTISTS; AND~~

6 (ii) ~~{Conduct a balloting process by which each dentist~~
~~licensed by the State is eligible to vote to select} ~~SUBMIT~~ the~~
~~names of the licensed dentists {to be submitted} ~~FOR WHICH~~~~
~~~~THE BOARD RECEIVES NOMINATIONS UNDER ITEM (I) OF~~~~  
~~~~THIS PARAGRAPH~~ to the Governor.~~

7 (2) For each licensed dental hygienist vacancy, the Board shall:

8 (i) Send by electronic mail or regular mail a solicitation for
9 nominations to fill the vacancy to:

10 1. Each dental hygienist licensed by the Board; ~~{and}~~

11 2. Each State dental hygienist organization affiliated with
12 a
national organization; and

13 ~~3. ANY OTHER DENTAL HYGIENIST ORGANIZATION~~
~~THAT REPRESENTS AT LEAST 25 LICENSED DENTAL~~
~~HYGIENISTS; AND~~

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(ii) ~~{Conduct a balloting process by which each dental hygienist licensed by the State is eligible to vote to select} **SUBMIT** the names of the licensed dental hygienists {to be submitted} ~~FOR WHICH THE BOARD RECEIVES NOMINATIONS UNDER ITEM (I) OF THIS PARAGRAPH~~ to the Governor.~~

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~~{(3) The Board shall develop guidelines for the solicitation of nominations and balloting process that to the extent possible will result in the overall composition of the Board reasonably reflecting the geographic, racial, ethnic, and gender diversity of the 25 State.}~~

26 4-205.

27 (c) **(1)** In addition to the duties set forth elsewhere in this title, the Board shall:

29 [(1) **(I)** Keep a record of each license and each action taken under §
30 4-315 of this title;

31 [(2) **(II)** Have an official seal; [and]

2 ~~**(III) BE TRAINED FOR AT LEAST 1 HOUR EACH YEAR AT LEAST 3 HOURS EACH TERM UNDER THE AUSPICES OF THE OFFICE OF THE MARYLAND ATTORNEY GENERAL ON THE POWERS, DUTIES, AND PROCEDURES, INCLUDING COMPLAINT AND HEARING PROCEDURES, OF THE BOARD; AND**~~

4 [(3) **(IV)** Adopt rules, regulations, and bylaws as may be necessary to
5 carry out the provisions of this title.

9 ~~**(2) TO BE DETERMINED TO BE IN COMPLIANCE WITH THE TRAINING 8 REQUIREMENT UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION, THE BOARD SHALL:**~~

12 ~~**(I) SELECT AN ATTORNEY, AFTER CONSULTATION WITH THE MARYLAND STATE BAR ASSOCIATION, WITH THE APPROPRIATE EXPERTISE TO PROVIDE THE TRAINING TO THE BOARD;**~~

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~~(H)~~ REQUIRE EACH MEMBER OF THE BOARD TO ATTEND THE TRAINING AND RECEIVE DOCUMENTATION OF COMPLETION FROM THE ATTORNEY PROVIDING THE TRAINING; AND

16

~~(H)~~ (II) INCLUDE A SUMMARY OF THE TRAINING AND ATTENDANCE IN THE BOARD'S ANNUAL REPORT.

4-318.

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 4-315 of this subtitle, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

22 (b) The Board shall give notice and hold the hearing in accordance with the Administrative Procedure Act.

24 (c) In accordance with the State budget, the Board may authorize payment of fees and travel expenses of witnesses who testify in a proceeding under this section.

26 (d) The individual may be represented at the hearing by counsel.

27 (e) The Board may administer oaths and take depositions of witnesses in any proceeding under this section.

29 (f) (1) Over the signature of an officer or the administrator of the Board, the Board may issue subpoenas and administer oaths to witnesses in connection with any investigation under this title and any hearings or proceedings before it.

(2) The Board shall issue subpoenas on behalf of the individual if the individual requests in writing that the Board do so.

3 (3) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person as for contempt of court.

7 (4) If, without lawful excuse, an individual disobeys a subpoena from the Board or an order by the Board to take an oath, testify, or answer a question, on petition of the Board, a court of competent jurisdiction may compel compliance with the subpoena.

10 (g) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

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12 (H) (1) EXCEPT AS PROVIDED IN § 4-318.1 OF THIS SUBTITLE, THE BOARD SHALL
ISSUE A FINAL DECISION ON AN ACTION WITHIN 120 DAYS AFTER THE FINAL DAY OF A
HEARING.

14 (2) IF THE BOARD DOES NOT ISSUE A FINAL DECISION WITHIN 120
19 DAYS UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE INDIVIDUAL
WHO IS THE SUBJECT OF THE ACTION MAY PROVIDE WRITTEN NOTICE
TO THE BOARD THAT THE INDIVIDUAL HAS NOT RECEIVED A FINAL
DECISION IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION.

23 (3) IF, WITHOUT GOOD CAUSE, THE BOARD DOES NOT ISSUE A FINAL
DECISION ON AN ACTION WITHIN 30 DAYS AFTER RECEIVING A WRITTEN
NOTICE UNDER PARAGRAPH (2) OF THIS SUBSECTION, A COURT OF
COMPETENT JURISDICTION MAY ENTER THE FINAL DECISION SHALL BE
IN FAVOR OF THE INDIVIDUAL WHO IS THE SUBJECT OF THE ACTION.

4-318.1.

(A) THE BOARD MAY ORDER THE SUMMARY SUSPENSION OF A LICENSE IF THE
BOARD DETERMINES THERE IS A SUBSTANTIAL LIKELIHOOD THAT A LICENSEE
27 POSES A RISK OF HARM TO THE PUBLIC HEALTH, SAFETY, OR WELFARE.

(B) NOTICE SHALL BE PROVIDED THAT THE LICENSEE, UPON
WRITTEN REQUEST, SHALL BE ENTITLED TO A SHOW CAUSE
HEARING 30 DAYS OF THE BOARD'S RECEIPT OF A REQUEST TO
SHOW CAUSE WHY THE LICENSEE'S LICENSE SHOULD NOT BE
SUSPENDED~~(1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,~~
~~BASED ON INFORMATION GATHERED DURING AN INVESTIGATION OR OTHERWISE~~
~~PROVIDED TO THE BOARD, THE BOARD SHALL ISSUE A NOTICE OF INTENT TO~~
~~SUMMARILY SUSPEND A LICENSE BEFORE EXECUTING AN ORDER OF SUMMARY~~
~~SUSPENSION THAT INCLUDES:~~

32 (1) ~~A PROPOSED ORDER OF SUMMARY SUSPENSION, THAT IS~~
33 ~~UNEXECUTED AND INCLUDES:~~

1. ~~THE STATUTORY AUTHORITY FOR THE PROPOSED~~
ACTION;

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3 ~~2. THE FACTUAL ALLEGATIONS ON WHICH THE BOARD~~
4 ~~HAS BASED ITS DETERMINATION THAT THERE IS A~~
5 ~~SUBSTANTIAL LIKELIHOOD THAT THE LICENSEE POSES A~~
6 ~~RISK OF HARM TO THE PUBLIC HEALTH, SAFETY, OR~~
7 ~~WELFARE; AND~~

7 ~~3. NOTICE TO THE LICENSEE OF THE RIGHT TO~~
8 ~~REQUEST A FULL HEARING ON THE MERITS OF THE~~
9 ~~SUMMARY SUSPENSION IF THE BOARD EXECUTES THE~~
10 ~~PROPOSED ORDER OF SUMMARY SUSPENSION; AND~~

12 ~~(II) AN ORDER OR A SUMMONS TO APPEAR BEFORE THE BOARD TO SHOW~~
13 ~~CAUSE WHY THE BOARD SHOULD NOT EXECUTE THE ORDER OF SUMMARY~~
14 ~~SUSPENSION THAT PROVIDES NOTICE TO THE LICENSEE OF THE~~
15 ~~CONSEQUENCES OF FAILING TO APPEAR.~~

18 ~~(2) IF THE BOARD ISSUES A NOTICE OF INTENT TO SUMMARILY SUSPEND~~
19 ~~A LICENSE, THE BOARD SHALL OFFER THE RESPONDENT THE~~
20 ~~OPPORTUNITY TO APPEAR BEFORE THE BOARD TO SHOW CAUSE AS TO~~
21 ~~WHY THE RESPONDENT'S LICENSE SHOULD NOT BE SUSPENDED~~
22 ~~BEFORE THE BOARD EXECUTES THE ORDER OF SUMMARY SUSPENSION.~~

23 ~~(3) THE BOARD MAY ORDER THE SUMMARY SUSPENSION OF A~~
24 ~~LICENSE WITHOUT FIRST ISSUING A NOTICE OF INTENT TO~~
25 ~~SUMMARILY SUSPEND A LICENSE OR PROVIDING A LICENSEE~~
26 ~~WITH AN OPPORTUNITY FOR A PRE-DEPRIVATION HEARING IF:~~

27 ~~(i) THE BOARD DETERMINES THAT THE PUBLIC HEALTH,~~
28 ~~SAFETY, AND WELFARE REQUIRE THE IMMEDIATE SUSPENSION OF~~
29 ~~THE LICENSE WITHOUT PRIOR NOTICE AND AN OPPORTUNITY TO~~
30 ~~BE HEARD; AND~~

31 ~~(II) THE LICENSEE IS PROVIDED WITH AN OPPORTUNITY FOR A HEARING~~
32 ~~BEFORE THE BOARD AT THE BOARD'S NEXT REGULARLY SCHEDULED~~
33 ~~MEETING BUT NOT TO EXCEED 30 DAYS FROM THE DATE OF THE LICENSEE'S~~
34 ~~REQUEST.~~

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30 (C) THE BOARD SHALL ISSUE A FINAL DECISION ON A SUMMARY
31 SUSPENSION WITHIN 60 DAYS AFTER THE FINAL DAY OF AN EVIDENTIARY
HEARING. HELD UNDER § 4-318 OF THIS SUBTITLE, IF APPLICABLE. THE
EVIDENTIARY SHOW CAUSE HEARING.

32 ~~(D) (1) IF THE BOARD ISSUES A NOTICE OF INTENT TO SUMMARILY~~ 34
SUSPEND A LICENSE BEFORE SUMMARILY SUSPENDING A LICENSE, AFTER THE
SHOW CAUSE HEARING UNDER SUBSECTION (B)(2) OF THIS SECTION, THE
BOARD MAY VOTE TO:

3 (I) ORDER A SUMMARY SUSPENSION;

4 (II) DENY THE SUMMARY SUSPENSION;

5 (III) ENTER INTO AN ORDER AGREED ON BY THE PARTIES; OR

8 (IV) ENTER INTO ANY INTERIM ORDER WARRANTED BY THE CIRCUMSTANCES OF
THE CASE, INCLUDING AN ORDER TO STAY THE SUMMARY SUSPENSION SUBJECT TO
SPECIFIED CONDITIONS.

9 (2) IF THE BOARD ORDERS A SUMMARY SUSPENSION BEFORE A SHOW 10 CAUSE
HEARING UNDER SUBSECTION (B)(2) OF THIS SECTION, AT THE CONCLUSION
11 OF A SUBSEQUENT HEARING, THE BOARD MAY VOTE TO:

12 (I) AFFIRM ITS ORDER OF SUMMARY SUSPENSION;

13 (II) RESCIND THE ORDER FOR SUMMARY SUSPENSION;

14 (III) ENTER INTO AN ORDER AGREED ON BY THE PARTIES; OR

17 (IV) ENTER INTO ANY INTERIM ORDER WARRANTED BY THE 16 CIRCUMSTANCES OF
THE CASE, INCLUDING AN ORDER TO STAY THE SUMMARY SUSPENSION SUBJECT TO
SPECIFIED CONDITIONS.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 19 October
1, 2022.

SB 611_StephenDargan_FavorablewAmendments.pdf

Uploaded by: Stephen Dargan

Position: FWA

Written Testimony on SB 611
Support with Amendments
Dr. Stephen Dargan
President, Maryland State Dental Association
Prince Frederick, MD

My name is Dr. Stephen Dargan, a practicing dentist of 44 years in Prince Frederick, and the current president of the Maryland State Dental Association.

The MSDA supports with amendments, SB 611. Our lobbyist, Dan Doherty, has submitted amendments to the bill which we believe will help better address the issues that several members of the General Assembly have with the functioning of the Board of Dental Examiners.

While there have been a number of concerns that I, and the MSDA, have with the bill as currently written, the changes in the nomination process may be most concerning. The current process of ballot voting for nominees by state organizations, like the MSDA and others associated with a national professional dental organization, is the best way to assure that the most capable candidate is recognized and brought forward to the governor for appointment to the dental board. In addition, every licensed dentist has an opportunity to be a candidate by simply returning the nomination papers with 10 signatures from other Maryland licensed dentists.

Other areas of concern, as outlined by the MSDA amendments in Mr. Doherty's testimony, are the proposed composition of the board, parameters for training of the board, and the section on summary suspensions.

While agreeing with the premise for several sections of SB 611, we hope to be able to support an amended version.

SB 611 State Board of Dental Examiners Membership.

Uploaded by: Thomas a'Becket

Position: FWA

SB 611 State Board of Dental Examiners Membership, Training and Disciplinary Process

Dr Thomas R. a'Becket

FAVORABLE with Amendments

This bill is in 4 parts

Part 1 Nomination Process

OPPOSE this is the most problematic section it changes the process and eliminates SBDE Balloting process. Reasoning current system is not complicated, any recognized National Dental Groups can nominate one dentist and any resident who is a licensed Maryland Dentist can by petition with 10 signatures of licensed dentists be placed on the ballot. The tally is forwarded to the Governor for the selection and then is confirmed by the State Senate. The changes 1 create mandatory criteria for individual selection based on business model (not defined), 2 must treat Medicaid patients (aren't all patients equal) and 3 a consumer member must have been a Medicaid patient (to me this could a stigma to the individual). No balloting by SBDE, this removes in part a peer review of those seeking to protect the public, both the dentists and the patients we serve. FYI The SBDE would like to get out of the business of the balloting due to their chronic short staffing compliant.

Part 2 Board Training

SUPPORT Training for all Board members under the auspices of the Attorney General not outside Counsel with additional financial requirements. The parameters of said training to be determined by the Maryland General Assembly. Is one hour enough ??

Part 3 Final Decisions

SUPPORT Final Decisions to be issued in 120 unless good cause such as licensee requests for delays or pandemic related issues. If Board fails in its duty, then a decision in favor may be entered by a court of competent jurisdiction.

Part 4 Summary Suspension

SUPPORT Summary suspensions to protect the health, safety and welfare of patients, if complaint does not meet these criteria the normal process should apply.

With these points in mind I urge SB 611 receive a FAVORABLE Report with ADMENTMENTS.

Dr Thomas R a'Becket February 16, 2022

6 - SB 611 - EHEA - Dental Board - Oppose .docx.pd

Uploaded by: Heather Shek

Position: UNF



Board of Dental Examiners

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Dennis R. Schrader, Secretary

Arpana S. Verma Board Chair – Francis X. McLaughlin, Jr., Executive Director

55 Wade Avenue/Tulip Drive Catonsville, MD 21228 Phone: 410-402-8501; Email: mdh.mddentalboard@maryland.gov

2022 SESSION POSITION PAPER

BILL NO: Senate Bill 611

COMMITTEE: Education, Health, and Environmental Affairs

POSITION: Oppose

TITLE: State Board of Dental Examiners – Membership, Training, and Disciplinary Processes-Revisions

BILL ANALYSIS: The bill alters the following provisions in the Dental Practice Act:

1. Board membership: Of the nine licensed dentists who serve on the Board of Dental Examiners (the Board), each of the business models used by dentists in the State must be represented. At least two must serve patients who receive dental services through the Maryland Medical Assistance Program. Of the three consumer members, to the extent practicable, 1 must be receiving, or have received, dental care through the Maryland Medical Assistance Program.

The Board opposes the provision which requires that each “business model” used by dentists in the State be represented on the Board. There are numerous business models such as corporate ownership, professional associations (PA), professional corporations, (PC), limited liability companies (LLC), sole proprietorship ownership, those in academia, and those who conduct research, etc. The nine members of the Board would be chosen solely on how they run a business or profession, rather than their dental expertise. The Board should seek the best dentists and dental hygienists who are available. All dentists from any background have an opportunity to apply for appointment to the Board. The Board welcomes providers with different specialty experience to assist with various cases. In addition, with regard to the requirement that at least two dentists serve patients who receive dental services through the Maryland Medical Assistance Program, the majority of the dentists who serve on the Board already serve Medicaid patients. With respect to a consumer member who may be receiving or who has received dental care through the Maryland Medical Assistance Program, there is no adult Medical Assistance currently in Maryland. Therefore, the Board would be required to request information as to whether an applicant received treatment as a child. Either way this would require the Board to request personal information that is inappropriate and would influence how the Board member is perceived.

2. Board nominations: The Board’s nomination process is deleted but the requirement that a certain number of names for each Board vacancy remains. The Board would be required to send notice of Board vacancies to “Any other professional dental organization that represents at least 25 licensed dentists” and “Any other dental hygienist organization that represents at least 25 licensed dental hygienists.”

The Board opposes the provision. Although the balloting process which requires the Board to hold an election through a third-party administrator at significant cost is deleted from the existing law, the requirement that there be a certain number of candidates for each Board vacancy remains. For example, it is required that for dentist vacancies, “the number of names on the list [submitted to the Governor] for one vacancy shall be four names, for two vacancies at least three names for each vacancy, and for three or more vacancies at least two names for each vacancy.” For dental hygienists, “the number of names on the list shall be at least four times the number of vacancies.” It is quite challenging to recruit quality Board members, especially dental hygiene members. The requirement places an unnecessary burden on the recruitment process.

3. Board member training: Board members are required to undertake one hour each year of documented training on the powers, duties, and procedures, including complaint and hearing procedures of the Board by an attorney, chosen in part in consultation with the Maryland State Bar Association.

The Board opposes the provision. Members of all of the state’s health occupations boards are required to undergo training soon after their appointments by attorneys in the Office of the Attorney General. The additional training would be redundant and is not a requirement for members of any other health occupations board in Maryland.

4. Final Decisions on Actions: The Board is required to issue a final decision on an action within 120 days after the final day of a hearing. If it does not, the individual who is the subject of the action may provide written notice to the Board. If the Board does not issue a final decision within 30 days, the final decision is deemed in favor of the respondent. It is not a requirement of any other health occupations board in the State.

The Board opposes the provision. If the Board believes that an individual (a respondent) has violated one or more of the disciplinary provisions set forth in the Maryland Dentistry Act, the Board’s disciplinary process formally begins with the issuance of a charging document to that respondent. If the respondent has requested a hearing on those charges and if the parties have not been able to agree on an equitable settlement of the matter, the Board can either (1) hold the hearing itself; or (2) refer the matter to the Office of Administrative Hearings (OAH) for it to hold a hearing and issue a proposed decision.

If the hearing is conducted by the Board, at the conclusion of that hearing, the Board deliberates and votes on a disposition. The matter is then forwarded to the Board’s Assistant Attorney General (AAG) for the drafting of the Board’s final order. When the AAG has concluded drafting the final order, that draft final order is once again reviewed by the Board to ensure that the order comports with the Board’s position and intended disposition. The Board has little to no control over how long it takes for the AAG to draft the final order.

If the matter had been referred to OAH, on receipt of a proposed order from OAH, the parties may file exceptions to that proposed decision. In that event, an exceptions hearing is held before the Board. At the conclusion of the exceptions hearing, the Board deliberates and votes on whether to accept OAH’s proposed decision as written or to modify it. Either way, after those deliberations and the Board’s vote, the matter is referred to the Board’s AAG for the drafting of the Board’s final order. When the AAG has concluded drafting the final order, that draft final order is once again reviewed by the Board to ensure that the order comports with the Board’s

position and intended disposition. Again, the Board has little to no control over how long it takes for the AAG to draft the final order.

In either scenario, if there is a risk that the Board's decision may affect competition generally, the Board must refer the draft order to the OAH for antitrust review. Specifically, under Md. Code Ann., Health Occ. § 1-203(c), the Board may refer a proposed decision after conducting its own hearings to OAH for review to "prevent unreasonable anticompetitive actions by the board or commission; and [d]etermine whether the actions of the board or commission further a clearly articulated State policy to displace competition in the regulated market." The Board has no control over the time that it might take OAH to conduct its antitrust review.

Therefore, it is the Board's position that any bill that imposes disciplinary timeframes upon the Board or the OAH once a case is concluded will not be in the public's best interest and may serve as an incentive to purposely postpone and hinder Board action. For these reasons, post-hearing time constraints are unheard of in any area of law, which includes administrative, civil, and criminal law.

5. Summary suspension: The Board may order the summary suspension of a license if the Board determines that there is a substantial likelihood that a licensee poses a risk of harm to the public health, safety, or welfare. The bill also provides for the issuance of a notice of intent to summarily suspend a license before executing an order of summary suspension. In addition, the bill provides that if the Board orders a summary suspension before a show cause hearing, the Board may "rescind" the order for summary suspension.

The Board opposes the provisions in part: The provisions currently exist in the Board's regulations found in the Code of Maryland Regulations (COMAR) 10.44.07.22 - .27. In addition, on page 7, beginning on line 9, the bill states:

(2) IF THE BOARD ORDERS A SUMMARY SUSPENSION BEFORE A SHOW CAUSE HEARING UNDER SUBSECTION (B)(2) OF THIS SECTION, AT THE CONCLUSION OF A SUBSEQUENT HEARING, THE BOARD MAY VOTE TO:

(I) (AFFIRM ITS ORDER OF SUMMARY SUSPENSION;
(II) RESCIND THE ORDER FOR SUMMARY SUSPENSION; (Emphasis added)
(III) ENTER INTO AN ORDER AGREED UPON BY THE PARTIES; OR
(IV) ENTER INTO ANY INTERIM ORDER WARRANTED BY THE
CIRCUMSTANCES OF THE CASE, INCLUDING AN ORDER TO STAY THE SUMMARY
SUSPENSION SUBJECT TO SPECIFIED CONDITIONS.

The Board would need definitional clarity for the word "RESCIND" Like other Maryland health occupations boards, the Dental Board will either lift or terminate its orders. The word "rescind" may be interpreted to mean that the Board must treat an order as never having existed or having to expunge the order. Again, no other health occupations board in Maryland treats an order as though it never existed.

For these reasons the Dental Board requests that SB 611 receive an unfavorable report.

I hope that this information is helpful. If you would like to discuss this further, please contact Dr. Arpana Verma, Board President at 240-498-8159, asverma93@gmail.com, or Dr. Edwin Morris, the Board's Legislative Committee Chair at 410-218-4203. In addition, the Board's Executive Director, Mr. Frank McLaughlin may be reached at 443-878-5253, frank.mclaughlin@maryland.gov.

The opinion of the Maryland State Board of Dental Examiners expressed in this Oppose Position does not necessarily reflect that of the Department of Health or the Administration.

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Uploaded by: Patricia O'Connor

Position: UNF

BRIAN E. FROSH
Attorney General

ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General

Writer's Direct Fax No.
(410) 576-6571

Writer's Direct Email:
poconnor@oag.state.md.us



WILLIAM D. GRUHN
Chief
Consumer Protection Division

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

Writer's Direct Dial No.
(410) 576-6515

February 15, 2022

To: The Honorable Paul G. Pinsky
Chair, Education, Health, and Environmental Affairs Committee

From: The Office of the Attorney General, Health Education and Advocacy Unit

Re: Senate Bill 611 (State Board of Dental Examiners – Membership, Training, and Disciplinary Processes – Revisions): Oppose

The Office of the Attorney General's Health Education and Advocacy Unit (HEAU) opposes Senate Bill 611 because two of the bill's provisions could place dental patients and the public at risk of serious harm. We believe that is not the intent of the bill's sponsors, but also believe it would be the effect of the bill if the provisions are not removed by amendments. As always, we will work with the sponsors as they wish.

1) The bill provides that a failure of the Board to issue an Order within a certain timeframe should default to a finding of no fault. Dentists who face disciplinary charges should *never* evade a full finding of the facts and the imposition of disciplinary actions, if any, by the Board whose mission is to protect dental patients and the public from the physical and financial harm that results from violations of the dental practice act, including substandard care, unprofessional conduct, or mental or physical incompetence.

We agree with the position stated by the Board on page 19 of the 2021 Senate Bill 836 report, which describes the challenges inherent in meeting deadlines that can be thwarted by uncooperative licensees and external requirements, i.e., antitrust reviews: “[I]t is the Board’s position that any bill that imposes disciplinary timeframes upon the Board will not be in the public’s best interest and may serve as an incentive to violators to ignore the Board’s lawful directives or to purposely postpone and hinder Board action. ... The combination of complexity of Board disciplinary cases, and the availability of staff are factors that influence the period of time that it takes for the Dental Board, or any health occupations board, to conclude disciplinary cases. ... Consideration must be given to the complexity of the case, the level of cooperation or non-cooperation of the respondent or their attorney, the number of dentists who must be subpoenaed and/or interviewed, whether a license is summarily suspended, inspections of dental offices where

infection control issues arise, whether and where a case goes to hearing, and the period for filing exceptions to proposed orders. These are factors that determine the length of time to conclude a case. **Although the Board strives to conclude all of its cases in a timely manner, in the end, proper investigation and protection of the public should be the primary consideration for all concerned.**” (emphasis added).

2) There is a provision in the bill that would require an outside attorney to provide training about the Board’s process. The Office of the Attorney General (OAG) conducts training for all new board members (not just the Dental Board) that includes training on the general disciplinary process and the Board’s role. We can foresee potential conflicts between the OAG’s advice and the private attorney/trainer’s advice that would undermine the effectiveness of the Board’s investigations and disciplinary proceedings.

We ask the committee for an unfavorable report.

cc: Sponsors