



# 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

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February 1, 2022

The Honorable Paul G. Pinsky  
Chair, Education, Health, and Environmental Affairs Committee  
2 West, Miller Senate Office Building  
Annapolis, Maryland 21401-1991

## **Re: SB 77 - Health Occupations Boards - Investigations - Right to Counsel - Support with Amendments**

Dear Chair Pinsky and Committee Members:

The Maryland State Board of Dental Examiners (the Dental Board) is submitting this letter of support with amendments for Senate Bill (SB) 77 - Health Occupations Boards - Investigations - Right to Counsel. The bill provides that if a health occupations board, including the Dental Board, investigates a licensee or certificate holder and the investigation may result in charges or sanctions against the licensee or certificate holder, the licensee or certificate holder may be represented by counsel during the investigation and have counsel present at any interview conducted during the investigation.

With regard to investigations conducted by the Dental Board, licensees and certificate holders have always been permitted to be represented by counsel. When the Board votes to investigate a complaint, it frequently votes to send the licensee or certificate holder a copy of the complaint and a request for a response to the complaint, as well as a request for the patient's records. Often, the licensee or certificate holder's response is accompanied by a letter from an attorney who enters their appearance on behalf of the licensee or certificate holder. The Board always recognizes the attorney's appearance.

With regard to interviews, the Dental Board, as well as other health occupations boards have permitted attorneys representing licensees or certificate holders to be present during all phases of the interview with the understanding that the attorney may not interfere or otherwise interject during the interview. The Board has experienced very few issues with that understanding. The Board notes that under the law a licensee or certificate holder does not have a right to be represented by counsel during the course of an investigation. The right to counsel arises if the licensee or certificate holder is formally charged by the Board. However, under the bill, the phrase "HAVE COUNSEL PRESENT AT ANY INTERVIEW OF THE LICENSEE OR CERTIFICATE HOLDER CONDUCTED BY OR ON BEHALF OF THE HEALTH OCCUPATIONS BOARD DURING THE INVESTIGATION" (page1 line 22 – page 2 lines 1-2)

raises concerns regarding the role of the licensee or certificate holder's attorney. It may be argued that since the attorney's presence is expressly recognized by statute, the intention is to expand their role so that they may participate in the interview and possibly interfere with a lawful Board investigation. The Dental Board therefore offers the following amendments:

AMENDMENT 1: Page 1, line 16: Before the word "IF" add:

(A)

AMENDMENT 2: Page 2, after line 2: add:

(B) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION:

(1) A LICENSEE OR A CERTIFICATE HOLDER MUST COOPERATE WITH A  
LAWFUL INVESTIGATION CONDUCTED BY A HEALTH OCCUPATIONS BOARD; AND

(2) ANY COUNSEL WHO IS PRESENT AT ANY INTERVIEW OF THE LICENSEE  
OR CERTIFICATE HOLDER MAY NOT CAUSE A LICENSEE OR A CERTIFICATE  
HOLDER TO FAIL TO COOPERATE WITH OR OTHERWISE INTERFERE IN THE  
PROCEEDINGS OF THAT INTERVIEW BY THE HEALTH OCCUPATIONS BOARD.

I hope that this information is helpful. If you would like to discuss this further, please contact me at 240-498-8159, [asverma93@gmail.com](mailto: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](mailto:frank.mclaughlin@maryland.gov).

Sincerely,



Arpana S. Verma, D.D.S.  
Board President

**The opinion of the Board expressed in this document does not necessarily reflect that of the Department of Health or the Administration.**