

SENATE BILL 202

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51r0926

By: **Senator Conway**

Introduced and read first time: February 2, 2015

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Dental Examiners – Mental Health and Physical Examinations**

3 FOR the purpose of providing that if the State Board of Dental Examiners, in reviewing a
4 certain application or in investigating a certain allegation, makes a certain finding,
5 the Board shall direct a certain applicant, dentist, dental hygienist, or dental
6 assistant to submit to a certain mental health examination, a certain physical
7 examination, or both; providing that, in return for a certain privilege given by the
8 State, a certain individual is deemed to have consented to submit to a certain
9 examination and to have waived certain claims of privilege; providing that the failure
10 or refusal of a certain individual to submit to a certain examination is prima facie
11 evidence of the individual's inability to practice a certain profession competently,
12 except under certain circumstances; requiring a certain individual to advise the
13 Board of certain information relating to the reasons for a failure or refusal to submit
14 to a certain examination and the expected date on which the individual would be
15 able to submit to the examination; requiring a certain individual who fails or refuses
16 to submit to a certain examination to immediately cease any practice of a certain
17 profession until the individual submits to the examination; requiring the Board to
18 pay the reasonable costs of certain examinations; and generally relating to the State
19 Board of Dental Examiners and required mental health and physical examinations.

20 BY adding to

21 Article – Health Occupations

22 Section 4–205.1

23 Annotated Code of Maryland

24 (2014 Replacement Volume)

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

27 **Article – Health Occupations**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **4-205.1.**

2 (A) IF, IN REVIEWING AN APPLICATION FOR LICENSURE, CERTIFICATION,
3 RECOGNITION, OR A PERMIT OR IN INVESTIGATING AN ALLEGATION BROUGHT
4 AGAINST A LICENSED DENTIST, A LICENSED DENTAL HYGIENIST, OR A DENTAL
5 ASSISTANT REGULATED BY THE BOARD UNDER THIS TITLE, THE BOARD FINDS
6 REASONABLE EVIDENCE THAT THE APPLICANT, DENTIST, DENTAL HYGIENIST, OR
7 DENTAL ASSISTANT MAY CAUSE HARM TO AN INDIVIDUAL, THE BOARD SHALL
8 DIRECT THE APPLICANT, LICENSED DENTIST, LICENSED DENTAL HYGIENIST, OR
9 DENTAL ASSISTANT TO SUBMIT TO AN APPROPRIATE MENTAL HEALTH
10 EXAMINATION, AN APPROPRIATE PHYSICAL EXAMINATION, OR BOTH, BY A HEALTH
11 CARE PRACTITIONER, AS DEFINED IN § 1-301 OF THIS ARTICLE, DESIGNATED BY THE
12 BOARD.

13 (B) IN RETURN FOR THE PRIVILEGE GIVEN BY THE STATE ISSUING A
14 LICENSE, CERTIFICATE, PERMIT, OR RECOGNITION, THE APPLICANT AND THE
15 LICENSED, CERTIFIED, PERMITTED, OR RECOGNIZED INDIVIDUAL IS DEEMED TO
16 HAVE:

17 (1) CONSENTED TO SUBMIT TO AN EXAMINATION UNDER THIS
18 SECTION, IF REQUESTED BY THE BOARD IN WRITING; AND

19 (2) WAIVED ANY CLAIM OF PRIVILEGE AS TO THE TESTIMONY OR
20 EXAMINATION REPORTS OF A HEALTH CARE PRACTITIONER WHO EXAMINES THE
21 APPLICANT, DENTIST, DENTAL HYGIENIST, OR DENTAL ASSISTANT.

22 (C) THE FAILURE OR REFUSAL OF THE APPLICANT OR THE LICENSED,
23 CERTIFIED, PERMITTED, OR RECOGNIZED INDIVIDUAL TO SUBMIT TO AN
24 EXAMINATION IS PRIMA FACIE EVIDENCE OF THE APPLICANT'S OR THE LICENSED,
25 CERTIFIED, PERMITTED, OR RECOGNIZED INDIVIDUAL'S INABILITY TO PRACTICE
26 DENTISTRY, DENTAL HYGIENE, OR DENTAL ASSISTING COMPETENTLY, UNLESS THE
27 BOARD FINDS THAT THE FAILURE OR REFUSAL WAS BEYOND THE CONTROL OF THE
28 APPLICANT OR THE LICENSED, CERTIFIED, PERMITTED, OR RECOGNIZED
29 INDIVIDUAL.

30 (D) IF THE FAILURE OR REFUSAL TO SUBMIT TO AN EXAMINATION IS
31 BEYOND THE CONTROL OF AN INDIVIDUAL, THE INDIVIDUAL, WITHIN 10 WORKING
32 DAYS AFTER THE DATE OF RECEIPT OF THE BOARD'S REQUEST TO SUBMIT TO AN
33 EXAMINATION, SHALL ADVISE THE BOARD IN WRITING, DIRECTLY OR THROUGH THE
34 INDIVIDUAL'S PHYSICIAN OR LEGAL REPRESENTATIVE, OF THE FOLLOWING:

35 (1) THE SPECIFIC REASONS FOR THE FAILURE OR REFUSAL TO
36 SUBMIT TO THE EXAMINATION, TOGETHER WITH COPIES OF ALL MEDICAL REPORTS

1 SUPPORTING ANY CLAIM OF PHYSICAL OR MENTAL INABILITY TO SUBMIT TO THE
2 EXAMINATION; AND

3 **(2) THE EXPECTED DATE ON WHICH THE INDIVIDUAL WOULD BE ABLE**
4 **TO SUBMIT TO THE EXAMINATION.**

5 **(E) AN INDIVIDUAL WHO FAILS OR REFUSES TO SUBMIT TO AN**
6 **EXAMINATION IMMEDIATELY SHALL CEASE ANY PRACTICE OF DENTISTRY, DENTAL**
7 **HYGIENE, OR DENTAL ASSISTING UNTIL THE INDIVIDUAL SUBMITS TO THE**
8 **EXAMINATION.**

9 **(F) THE BOARD SHALL PAY THE REASONABLE COSTS OF ANY EXAMINATION**
10 **MADE UNDER THIS SECTION.**

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
12 1, 2015.