

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 924 (Senator Gallion)
Education, Health, and Environmental Affairs

Maryland Dentistry Act - Practice of Dentistry - Scope and Prohibited Act

This bill authorizes an individual who is not licensed as a dentist by the State Board of Dental Examiners to own, manage, or operate a dental practice by exempting specified persons who provide goods and services to, or who operate or manage, dental practices from board licensure requirements. Accordingly, the bill establishes a definition for “dental practice” and modifies the definition of “practice dentistry.” Additionally, the bill prohibits a person from aiding or abetting the unauthorized practice of dentistry.

Fiscal Summary

State Effect: The bill’s changes can be handled with existing budgeted resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: Potential meaningful, as discussed below.

Analysis

Bill Summary: “Dental practice” means an entity that is owned entirely by one or more licensed dentists and that is formed under State law for the purpose of rendering dental services.

The bill removes managers, proprietors, and conductors of or operators in any place in which a dental service or operation is performed intraorally from the definition of “practice dentistry” under the Health Occupations Article.

The board may not require individuals who are engaged in the following activities to be licensed by the board:

- owning, leasing, or otherwise providing, or contracting to own, lease, or otherwise provide, any asset used by a licensed dentist or dental practice, including real property, furnishings, equipment, inventory, and other goods (excluding the dental records of patients);
- maintaining or contracting to maintain dental records;
- employing, contracting for, or otherwise providing the services of personnel other than a licensed dentist;
- managing, conducting, or contracting to manage or conduct a dental practice, including performing administrative functions and other functions that do not include the practice of dentistry;
- providing consulting, financial, or other services relating to productivity, efficiency, and cost management of a dental practice that do not include the practice of dentistry; or
- receiving fees for specified goods or services to a dentist or dental practice.

A dentist or dental practice is not prohibited from contracting to receive or receiving or benefiting from the aforementioned services. The board may not prohibit a person from contracting to provide or engaging in such services, nor may it prohibit a dentist or dental practice from contracting to receive, receiving, or benefiting from such services.

Current Law: Under the Health Occupations Article, an individual must obtain a license from the State Board of Dental Examiners in order to practice dentistry, with specified exceptions. “Practice dentistry” encompasses being a manager, proprietor, or conductor of or an operator in any place in which a dental service or operation is performed intraorally.

A dentist is subject to license denial as well as reprimand, probation, suspension, and revocation on various grounds, including fraudulently obtaining or using a license or fraudulently obtaining a fee; committing a felony involving moral turpitude; providing dental services while under the influence of drugs or alcohol; practicing dentistry in a professionally incompetent manner or grossly incompetent manner; having a suspended or revoked license in another state; allowing an unauthorized individual to practice dentistry or dental hygiene under his or her supervision; behaving dishonorably or unprofessionally; violating rules adopted by the board; and failing to comply with the U.S. Centers for Disease Control and Prevention’s guidelines on universal precautions (except in extreme situations, as specified), among other enumerated actions. A dental hygienist is subject to discipline on similar grounds.

The board has the authority to impose a penalty of up to \$5,000, in addition to taking certain disciplinary actions instead of suspending a license to practice dentistry. Any such penalty is paid to the general fund.

A person who practices or attempts to practice dentistry without a license or misrepresents to the public regarding the person's authorization to practice dentistry is guilty of a misdemeanor and on conviction is subject to a maximum penalty of either a \$2,000 fine or six months imprisonment for a first offense. The maximum penalty for a subsequent offense increases to either a \$6,000 fine or one year imprisonment.

A person who unlawfully practices or attempts to practice dental hygiene, aids or abets the unauthorized practice of dental hygiene, or misrepresents to the public regarding the person's authorization to practice dental hygiene is guilty of a misdemeanor and on conviction is subject to a maximum fine of \$1,000.

A person who violates specified provisions relating to dental laboratory work or advertising a dental appliance is guilty of a misdemeanor and on conviction is subject to a maximum penalty of either a \$2,000 fine or six months imprisonment.

Background: The State Board of Dental Examiners is mandated to protect the public by regulating the practice of dentistry and dental hygiene in Maryland. Among the enumerated duties, the board issues licenses, adopts standards of practice for dentistry, investigates complaints based on alleged violations of regulations and statutes, and disciplines licensees. According to the Maryland Department of Health, for fiscal 2018, there were about 4,114 licensed dentists and 2,319 licensed dental hygienists.

In 2014, the board proposed regulations that would have established that only a dentist may own, manage, conduct, operate, or be the proprietor of a dental practice. Additionally, the regulations would have specified that a person is not prohibited from providing goods or services for the support of the business of a dental practice as long as the person does not (1) provide goods or services in exchange for a percentage or share of revenue or profits of the dental practice or (2) exert authority or control over the clinical practice of dentistry. The regulations would have also specified that the following would not be considered to be exerting control over a dental practice: (1) a lease, mortgage agreement, or other arrangement regarding the use of space for dental offices, based on a nonpercentage fee reasonably related to the fair market value of the office space; or (2) agreements relating to the purchase, sale, financing, or lease of dental equipment, instruments, and supplies as long as the dentist maintained complete control over the instruments and supplies and the agreement did not include a revenue percentage fee. The regulations were not adopted.

Small Business Effect: The bill allows individuals who are not licensed dentists to serve as owners, managers, and operators of small business dental practices. Specified providers

of goods and services to dental practices, including administrative personnel, are also exempt from board licensure requirements.

Additional Information

Prior Introductions: SB 1124 of 2017, a bill with similar provisions, received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken. Its cross file, HB 1584, was assigned to the House Rules and Executive Nominations Committee, but no further action was taken. In addition, a similar bill was introduced in the 2015 session.

Cross File: HB 597 (Delegate Krebs) - Health and Government Operations.

Information Source(s): Maryland Department of Health; Department of Legislative Services

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