

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 969

(Delegate Kelly, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

State Board of Dental Examiners - Training and Disciplinary Processes -
Revisions

This bill alters board member training requirements for the State Board of Dental Examiners (BDE) and disciplinary actions taken by BDE, including the processes for issuing final decisions against a licensee.

Fiscal Summary

State Effect: Any impact on BDE special fund expenditures is assumed to be minimal. Revenues are not affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Board Member Training Requirements

BDE members must be trained for at least one hour each year on the board's powers, duties, and procedures, including complaint and hearing procedures. After consultation with the State Bar Association, BDE must select an attorney with the appropriate expertise to provide the required training and require each member of the board to attend the training and receive documentation of completion from the attorney completing the training. BDE must include a summary of the training and attendance in the board's annual report.

Disciplinary Actions

BDE must issue a final decision on an action within 120 days after the final day of a hearing. If BDE does not issue a final decision within 120 days, the individual who is the subject of the action may provide written notice to BDE that the individual has not received a final decision. If BDE does not issue a final action within 30 days after receiving this written notice, the final decision must be in favor of the individual who is the subject of the action.

BDE may order the summary suspension of a license if it determines there is a substantial likelihood that a licensee poses a risk of harm to public health, safety, or welfare. Based on information gathered during an investigation or otherwise provided to the board, BDE must issue a notice of intent to summarily suspend a license before executing an order of summary suspension that includes:

- a proposed order of summary suspension that is unexecuted and includes (1) the statutory authority for the proposed action; (2) the factual allegations on which the board has based its determination that there is a substantial likelihood that the licensee poses a risk of harm to the public health, safety, or welfare; and (3) notice to the licensee of the right to request a full hearing on the merits of the summary suspension if BDE executes the proposed order of summary suspension; and
- an order or summons to appear before BDE to show cause why the board should not execute the order of summary suspension that provides notice to the licensee of the consequences of failing to appear.

If BDE issues a notice of intent to summarily suspend a license, the board must offer the respondent the opportunity to appear before the board to show cause as to why their license should not be suspended before the board executes the order of summary suspension. The board may order the summary suspension without first issuing a notice of intent to summarily suspend a license or providing a licensee with an opportunity for a pre-deprivation hearing if (1) BDE determines that the public health, safety, and welfare require the immediate suspension of the license without prior notice and an opportunity to be heard and (2) the licensee is provided with an opportunity for a hearing at the board's next regularly scheduled meeting, not exceeding 30 days from the date of the licensee's request.

BDE must issue a final decision on a summary suspension within 60 days after the final day of an evidentiary hearing, if applicable. If the board issues a notice of intent to summarily suspend a license before summarily suspending a license, after the show cause hearing, BDE may vote to order a summary suspension, deny the summary suspension, enter into an order agreed on by the parties, or enter into any interim order warranted by

the circumstances of the case, including an order to stay the summary suspension under specified conditions.

If the board orders a summary suspension before a show cause hearing, at the conclusion of a subsequent hearing, BDE may vote to affirm its order of summary suspension, rescind the order for summary suspension, enter into an order agreed on by the parties, or enter into any interim order warranted by the circumstances of the case, including an order to stay the summary suspension subject to specified conditions.

Current Law: Under the Health Occupations Article, an individual must obtain a license from BDE to practice dentistry or dental hygiene. BDE is mandated to protect the public by regulating the practice of dentistry and dental hygiene in Maryland. Among the enumerated duties, BDE issues licenses, adopts standards of practice, investigates complaints based on alleged violations of regulations and statutes, and disciplines licensees.

A dentist is subject to license denial as well as reprimand, probation, suspension, and revocation on various grounds. Before BDE takes any disciplinary action against a licensee, the individual has the opportunity for a hearing before BDE. BDE must give the individual notice and hold the hearing in accordance with the Administrative Procedures Act. An individual aggrieved by a final decision of BDE in a contested case may petition for judicial review.

Under Maryland regulations (COMAR [10.44.07.20](#)), after final review of the record and deliberation, BDE must issue a final order of the dismissal, revocation, suspension, denial of licensure, reprimand, probation, civil penalty, or other disposition as appropriate. Within 15 days after BDE issues a final order, either party may file a motion for reconsideration.

Chapter 361 of 2021 required BDE to study and [make recommendations](#) regarding revisions to the disciplinary process and actions of the board that are necessary to improve the process of disciplining dentists and the disclosure of disciplinary actions.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 611 (Senator Beidle, *et al.*) - Education, Health, and Environmental Affairs.

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

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