

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 811

(Delegate Nathan-Pulliam, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

State Board of Dental Examiners Nomination and Disciplinary Processes - Task Force on the Discipline of Health Care Professionals and Improved Patient Care

This bill establishes a new process to nominate licensee board members to serve on the State Board of Dental Examiners and requires the board to adopt new regulations to guide the disciplinary process and meet other requirements, including reporting on its implementation of the bill by December 31, 2008. Board members must be appointed from a list of names submitted by the board, and individuals appointed to the board have to reasonably reflect the geographic, racial, ethnic, cultural, and gender diversity of the State. Additionally, the bill establishes a Task Force on the Discipline of Health Care Professionals and Improved Patient Care, staffed by the Department of Health and Mental Hygiene and health occupations boards in conjunction with the Office of the Attorney General. Members may not receive compensation but are entitled to reimbursement for travel expenses. The task force terminates June 30, 2009.

The bill takes effect July 1, 2008.

Fiscal Summary

State Effect: Special fund expenditures could increase minimally beginning in FY 2009 to conduct the balloting and nominations process.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: By December 31, 2008, the board has to • begin to collect race, gender, and ethnicity information on all licensees during the application process; • develop a methodology of tracking the status of all complaints from the initial allegation through to sanctions and final action and keep records of the information for future audits; • develop a database so that data can be analyzed in a variety of ways and subjectivity and individual bias is reduced; • institute the development, use, and routine review of a comprehensive status report as a monitoring tool for all disciplinary cases; • implement a case audit that studies selected cases, de-identifying files, and using outside experts; and • develop a nominating process for board members.

For each licensed dentist vacancy, the board has to mail a written solicitation for nominations to fill the vacancy to each licensed dentist and each State dental organization affiliated with a national organization. In addition, the board has to conduct a balloting process so that each dentist licensed by the State can vote to select the names of the licensed dentists to be submitted to the Governor. Likewise, for each licensed dental hygienist vacancy, the board has to mail a written solicitation for nominations to fill the vacancy to each licensed dental hygienist and each State dental hygienist organization affiliated with a national organization. In addition, the board has to conduct a balloting process so that each dental hygienist licensed by the State can vote to select the names of the licensed dentists to be submitted to the Governor. The board has to 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 State.

The Task Force on the Discipline of Health Care Professionals and Improved Patient Care is charged with issuing recommendations regarding • practices and procedures supporting the fundamental goals and objectives of the disciplinary programs of the health occupations boards; • potential changes to the organizational structure of the health occupations boards and the relationship of all boards to DHMH; and • measures that will otherwise enhance the fair, consistent, and speedy resolution of reports concerning substandard, illegal, or unethical practices by health care professionals. The task force is also charged with studying a number of issues related to the disciplinary system. The task force has to report its recommendations by December 1, 2008.

Current Law: The Governor appoints dentist and dental hygienist board members, with the advice of the Secretary of Health and Mental Hygiene, from a list of names submitted by the Maryland State Dental Association and the Maryland Dental Society or the Maryland Dental Hygienists' Association, as appropriate. From among its members, the

board elects a president and a secretary, and the board employs a staff in accordance with the board's budget.

If the board begins action on a complaint on its own initiative, or, if after investigation it elects to substitute its own complaint for one filed by a person who is not a member of the board, the board has to prepare a written complaint. If, after performing any preliminary investigation, the board determines that an allegation involving fees for professional or ancillary services does not constitute grounds for discipline or other action, the board can refer the allegation to a committee of the Society for Mediation.

Each of the 18 health occupations boards has defined in statute general procedures for the investigation of complaints, as well as the hearing and review process. Grounds on which a license can be denied, revoked, or suspended are relatively uniform from board to board.

Background: The Maryland Board of Dental Examiners is the licensing authority and regulator of the practice of dentistry and dental hygiene in the State. The board is special funded, supported exclusively by revenues generated from licensing fees. The 16 members of the board include 9 licensed dentists, 4 licensed dental hygienists, and 3 public representatives.

In May 2007, the Governor directed the Department of Health and Mental Hygiene Office of the Inspector General to audit the board with the goal of determining whether the disciplinary operations and sanctioning outcomes of the board incorporate bias and inequities. OIG completed its audit and submitted its final report in December of that year. While OIG found no evidence that the board exceeded its statutory or regulatory scope of authority in the sanctioning of licensees, it did make a number of recommendations to improve board functions regarding vacancies, disciplinary actions, and data collection. Many OIG report recommendations are included in the bill.

State Fiscal Effect: The board advises that special fund expenditures would increase by approximately \$6,000 each year for the nominations and balloting process. This estimate is based on two dental hygienist and one dentist board vacancies. Costs related to this process include printing, supplies, postage, and labeling. Legislative Services advises that expenditures could be higher or lower depending on the number of board vacancies in any given year.

Additional Information

Prior Introductions: None.

Cross File: SB 764 (Senator Conway) – Education, Health, and Environmental Affairs.

Information Source(s): Department of Health and Mental Hygiene, Health Care Alternative Dispute Resolution Office, Office of Administration Hearings, Department of Legislative Services

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Analysis by: Sarah K. Harvey

Direct Inquiries to:
(410) 946-5510
(301) 970-5510