

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 307 (Delegate Eckardt)
Health and Government Operations

Health Occupations - Facilities for Dental Radiology

This bill authorizes a licensed dentist to own and operate a facility for dental radiology that is physically separate from the office of the licensed dentist. If a licensed dentist evaluates the results of a dental radiograph, a certified dental radiation technologist may practice dental radiation in the facility without the licensed dentist being present on the premises. The State Board of Dental Examiners must adopt regulations for the operation of a facility for dental radiology to ensure the quality and safety of the services provided by the facility.

Fiscal Summary

State Effect: The State Board of Dental Examiners can handle the bill's requirements with existing budgeted resources. Any increase in dental radiation machine fee revenues for the Maryland Department of the Environment (MDE) under the bill is only expected to recover costs associated with current inspection requirements. Potential minimal increase in special fund revenues for MDE beginning in FY 2012 as more fines may be imposed for violations of State radiation control laws.

Local Effect: None.

Small Business Effect: Meaningful for dentists who wish to own and operate a dental radiology facility separate from their offices.

Analysis

Bill Summary: A facility for dental radiology is exempted from the requirement that, when using radiation for the purposes of dental diagnosis, a patient's body must be protected under the supervision of a licensed dentist.

The regulations required to be adopted by the board governing a facility for dental radiology must require a licensed dentist who is certified by a national certifying board for dental radiology to evaluate each cone-beam computer tomography scan for possible pathology.

Current Law: MDE's Radiation Machines Division regulates manufactured electronic sources of radiation to minimize the amount of unnecessary radiation exposure received by the general public. These electronic radiation sources include dental x-ray machines. Each person owning or operating a radiation machine in a dental facility must register the facility with MDE. Under current regulations, an annual fee of \$80 per dental radiation machine is assessed; that fee is intended to offset MDE's costs of monitoring and regulating sources of radiation within the dental facility.

All dental facilities registered with MDE are inspected every three years. During a dental inspection, MDE inspects the radiation machine for minimum patient exposure, operator protection, protective apparel availability, timer accuracy and reproducibility, exposure reproducibility, minimum filtration, and field size. Film processing is also inspected. An unannounced inspection may also be made if there is a complaint from an employee or the general public.

When MDE has reasonable grounds to believe that a person has violated the radiation control laws and regulations, it is required to issue a written complaint. MDE is also authorized to issue a corrective action order and send a written notice that requires the alleged violator to file a written report and/or appear at a hearing regarding the allegations. If MDE issues such a notice, and after a specified time period, MDE must issue a final corrective order if it determines that a violation has occurred. MDE is required to take action to secure compliance with any final corrective order and, if the terms of such an order are violated or if a violation is not corrected within the specified time period, sue to require correction. MDE is also authorized to bring an action for an injunction against violators.

Various administrative, civil, and criminal penalties apply to violations of the State's radiation control laws and regulations. A person who fails, refuses, or neglects to comply with those laws is guilty of a misdemeanor and on conviction is subject to a fine of up to \$25,000 or imprisonment for up to one year, or both. In addition, a person who violates

any radiation control provision is liable for a civil penalty of up to \$10,000; each day is a separate violation. Finally, MDE is authorized to impose an administrative penalty of up to \$1,000 for each violation, up to \$50,000 total, with consideration given to several specified factors; each day is a separate violation.

A dental radiation technologist is certified by the State Board of Dental Examiners and is authorized to perform the placement or exposure of dental radiographs. A dental radiation technologist must:

- be at least 18 years of age;
- be of good moral character;
- hold a high school degree or its equivalent;
- satisfactorily complete education requirements approved by the board and established by the Maryland State Dental Association or the Maryland Dental Society;
- pass an examination administered or approved by the board for qualifying to place and expose radiographs; and
- meet any requirements established by the American Dental Association or any applicable federal standards for training and certification as a dental radiation technologist.

A certified dental radiation technologist may only practice under the direct supervision of a supervising dentist. Per board regulations, direct supervision means that the dentist is in the office and personally diagnoses the condition to be treated, authorizes the placement or exposure of dental radiographs, and evaluates the performance of the dental radiation technologist before dismissal of the patient.

Background: According to MDE, the issuance of fines to deter violations of the State's radiation control laws and regulations is particularly important with respect to the dental industry. MDE began issuing such fines in May 2008. The compliance rate with State radiation control laws and regulations had averaged between 29% and 35% over the past 10 years, but increased to 49% in 2009 after MDE began issuing fines.

Cone-beam computed tomography (CBCT) systems provide high resolution, three-dimensional images of the hard tissues of the head, neck, face, and jaw. The American Academy of Oral and Maxillofacial Radiology (AAOMR) certifies dentists practicing the specialty of oral and maxillofacial radiology. AAOMR asserts that all CBCT image data be systematically reviewed for disease by either a board-certified oral and maxillofacial radiologist or a dentist with sufficient training and experience.

According to the board, there are currently no licensed dentists in Maryland who are board-certified in oral and maxillofacial radiology.

State Fiscal Effect: Special fund revenues to the Radiation Control Fund within MDE increase by \$80 annually for each additional dental radiation machine that is registered as a result of the bill. However, any increase in dental radiation machine fee revenues is only expected to offset MDE's costs associated with current inspection requirements.

Civil penalties and fines collected by MDE for violations of the State's radiation control laws and regulations are also deposited into MDE's Radiation Control Fund. Administrative and civil penalty revenue assessed against all radiation sources totaled \$861,550 in fiscal 2010, of which \$343,026 was collected from dental facilities. The extent to which administrative and civil penalty revenues increase under the bill is unknown.

Small Business Effect: Dentists who own or operate a facility for dental radiology will receive a potentially significant increase in reimbursement. Allowing a dental radiation technologist to practice without the physical presence of a supervising dentist will free up a supervising dentist's time, allowing the dentist to focus on other duties.

Additional Information

Prior Introductions: A nearly identical bill, SB 1066 of 2010, received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken on the bill.

Cross File: SB 20 (Senator Colburn) - Education, Health, and Environmental Affairs.

Information Source(s): American Academy of Oral and Maxillofacial Radiology, Department of Health and Mental Hygiene, Maryland Department of the Environment, Department of Legislative Services

Fiscal Note History: First Reader - February 3, 2011
ncs/ljm

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