Elizabeth Newman *Legislative Service Commission*

Sub. S.B. 51*

125th General Assembly
(As Reported by S. Health, Human Services, & Aging)

Sens. Blessing, Armbruster, Randy Gardner, DiDonato, Spada, Roberts, Coughlin, Goodman, Harris, Miller, Brady, Fedor, Prentiss

BILL SUMMARY

- Adds seven members to the State Dental Board.
- Modifies the law governing procedures dental assistants may perform.
- Provides civil immunity to a volunteer health professional who does routine dental restorative procedures, the scaling of teeth, or extractions of teeth that are not impacted.
- Changes the examination requirements for a license to practice dentistry.
- Creates the Dentist Loan Repayment Program under which the Ohio Board of Regents may repay all or part of a loan for education related expenses of an individual who agrees to provide dental services in a dental health resource shortage area.
- Increases dental license fees to fund the Program.

CONTENT AND OPERATION

Changes to the State Dental Board

(R.C. 4715.02; Sections 6 and 7)

The State Dental Board is composed of seven members: five dentists, one dental hygienist, and one public member. The bill increases the total number of

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* *This analysis was prepared before the report of the Senate Health, Human Services, and Aging Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

Board members to 14. It increases the number of dentist members to nine, hygienist members to three, and public members to two. The bill provides that at any one time only two of the dentist members may be specialists, and only one of the dental hygienist members may be a person employed as a full-time teacher of dental hygiene students. The bill requires the Governor to take geographical representation into account when making appointments to the Board.

The bill changes the length of the terms of Board members to four years, from five. The terms for the public members remain at five years. The bill requires that the terms of the new members begin 90 days after the bill's effective date and provides varying dates for the end of these terms in order to stagger the terms of the new members.

Duties of dental assistants

(R.C. 4715.39)

Current law permits the Board to adopt a rule authorizing a dental assistant to polish the clinical crowns of teeth if several requirements are met. The requirements are that (1) the dental assistant's polishing activities be limited to the use of a rubber cap attached to a slow-speed rotary dental hand piece, (2) the dentist supervising the assistant supervises no more than two dental assistants polishing at any given time, (3) the dental assistant is certified by the Dental Assisting National Board or the Ohio Commission on Dental Assistant Certification, and (4) the dental assistant has been issued a certificate from the Board authorizing the polishing.

The bill eliminates the Board's discretion and permits a dental assistant to polish the clinical crowns of teeth if the requirements are met. However, it further limits a dental assistant's polishing activities to removing soft deposits that build up over time on the crowns of teeth. The polishing is to be performed only after a dentist has evaluated the patient and a dentist or dental hygienist has removed any calculus from the teeth to be polished. The bill requires the Board to issue a certificate to polish teeth if the training requirements are met and further requires the Board to adopt rules establishing the standards for approval of the training.

Under current law, dental assistants are not permitted to engage in the practice of dental hygiene or perform the duties of a dental hygienist, including the removal of calcarious deposits or accretions on the crowns and roots of teeth unless authorized to do so in statute. The bill adds removal of dental cement to the dental hygienist duties that dental assistants may not perform unless authorized to do so in statute. The result of this change is that a dentist now may assign to a dental hygienist the duty of removing dental cement.

Immunity of health care professionals

(R.C. 2305.234)

The bill makes changes to the law governing the immunity from civil liability of health care professionals who provide services as volunteers in nonprofit shelters or health facilities to persons who are indigent or uninsured. Current law provides that immunity is not available to a volunteer health professional who performs an operation, unless the operation is necessary to preserve the life of a person in a medical emergency. The bill provides that an "operation" does not include routine dental restorative procedures, scaling of teeth, or extractions of teeth that are not impacted.

Applications for a license to practice dentistry

(repeal of R.C. 4715.10, 4715.11, and 4715.15, new sections 4715.10 and 4715.11; Section 4715.03)

The bill reorganizes, with some changes, the Revised Code sections that authorize the State Dental Board to grant licenses to practice dentistry. Under current law the Board is required to examine each applicant for a license. This examination must consist of a written or oral exam or both, and practical demonstrations. In lieu of this examination, the Board may accept and approve an exam by the National Board of Dental Examiners, or other boards, subject to such conditions as the State Dental Board may prescribe. Current law also requires that an applicant who graduates from an accredited dental school take the examination given by the National Board of Dental Examiners and submit the results to the State Dental Board.[1]

The bill adds a jurisprudence examination administered by the Board to requirements each applicant for a license to practice dentistry must meet. This examination must cover statutes and administrative rules governing the practice of dentistry in Ohio.

The bill requires that an applicant pass parts I and II of the examination given by the National Board of Dental Examiners. It also provides that an applicant must meet at least one of the following requirements:

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[1] *According to a representative of the State Dental Board an applicant must take and pass two examinations: (1) the examination given by the Board or accepted in lieu of the Board's examination and (2) the examination of the National Board of Dental Examiners.*

(1) Have taken and received a passing score on each component of an examination administered by a regional testing agency;[2]

(2) Have taken and received a passing score on an examination administered by the State Dental Board;

(3) Possess a license in good standing from another state and have actively engaged in the legal practice of dentistry in another state, the armed forces of the United States, the United States Public Health Service, or the United States Department of Veterans' Affairs for five years immediately preceding application.

The bill provides that to be granted a license to practice dentistry, a graduate of an unaccredited foreign dental college must meet both of the following requirements:

(1) Have taken and received a passing score on a basic science and laboratory examination consistent with rules adopted by the Board;[3]

(2) Have had sufficient clinical training in an accredited institution to reasonably assure a level of competency equal to that of graduates of accredited dental colleges, as determined by the Board.

Dentist Loan Repayment Program

(R.C. 3702.85 through 3702.95)

The bill creates the Dentist Loan Repayment Program. The program is to provide loan repayment on behalf of individuals who agree to provide dental services in areas designated as dental health resource shortage areas by the Director of Health. The Department of Health is required to administer the program in cooperation with the Board of Regents and the Dentist Loan Repayment Advisory Board. Under the program, the Ohio Board of Regents may agree to repay all or part of the principal and interest of a government or other educational loan taken by an individual for tuition, educational expenses, and room and board. These expenses must have been incurred while the individual was enrolled in an accredited dental college or a dental college located outside of

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[2] *The passing score on each component is to be determined either by the agency if the agency establishes scores for each separate component, or, if the agency does not establish scores for each separate component, by the State Dental Board. The Board must adopt rules establishing passing scores for regional examination components.*

[3] *Current law requires the Board to adopt rules establishing standards for unaccredited foreign dental college graduates. (Current R.C. 4715.10; 4715.11 in the bill.)*

the United States that meets the standards set by the State Dental Board and must be determined reasonable by the Director of Health. The Director of Health is required to adopt rules in consultation with the Ohio Board of Regents and the Dentist Loan Repayment Advisory Board to implement the Program.

Dental health resource shortage areas

(R.C. 3702.87 and 3702.88)

The Director of Health is required to designate by rule areas in Ohio as dental health resource shortage areas. The designation may apply to a geographic area, one or more facilities within a particular area, or a population group within a particular area. To be designated, an area must experience special dental health problems and dentist practice patterns that limit access to dental care.

The Director must, by rule, establish priorities among the designated areas for use in recruiting dentists to sites within particular areas under the Dentist Loan Repayment Program. The Director is to consider the ratio of dentists to the population in the shortage area, the distance to dentists outside the area, dental health status indicators of the target population in the area, presence of dental health care provider sites in the area with vacancies for dentists, availability of an eligible candidate interested in being recruited to a particular site within an area, and the distribution of dental health care provider sites in urban and rural regions. The director is to give the greatest priority to dental health resource shortage areas having a high ratio of population to dentists.

The Director is to, by rule, establish priorities for use in determining eligibility among applicants for participation in the Dentist Loan Repayment Program. These priorities may include consideration of an applicant's background and career goals, the length of time the applicant is willing to provide dental services in a dental health care resource shortage area, and the amount of the educational expenses for which reimbursement is being sought through the Program.

Requirements for application

(R.C. 3702.89, 3702.90, and 3702.91)

To be eligible to apply to participate in the Dentist Loan Repayment Program, an individual must not have received National Health Service Corps tuition or student loan repayment assistance and must be one of the following: a dental student enrolled in the final year of dental college, a dental resident in the final year of residency, or a dentist engaged in the practice of dentistry in Ohio for no more than three years prior to submitting the application. The application must

be submitted to the Director of Health on a form the Director is required to prescribe. All of the following information must be included or supplied:

(1) The applicant's name, address, and telephone number;

(2) The name of the dental college the applicant is attending or attended and dates and verification of attendance;

(3) If the applicant is a dental resident, the facility at which the dental residency is being performed;

(4) A summary and verification of the educational expenses the applicant seeks reimbursement for under the Program;

(5) If the applicant is a dentist, the verification of the applicant's license to practice dentistry in Ohio, and proof of good standing;

(6) Verification of the applicant's United States citizenship or status as a legal alien.

The Director of Health is required to approve an applicant for participation in the program if the applicant is eligible for participation and needed in a dental health resource shortage area, funds are available in the Dentist Loan Repayment Fund, and the General Assembly makes an appropriation allowing amounts in the Fund to be used for the program. On approving the application, the Director must notify and enter into discussions with the applicant concerning placement in a dental resource shortage area in which the applicant is needed. The Director may pay travel expenses for the applicant and the applicant's spouse to visit one dental health resource shortage area. The Director may also refer the applicant to the Ohio Dental Association for assistance in being recruited to a site in a dental health resource shortage area. If there is agreement between the Director and the applicant, the applicant is to submit a letter of intent agreeing to placement.

Once a letter of intent has been submitted the applicant may enter into a contract with the Director of Health and the Ohio Board of Regents for participation in the program. A lending institution may also be a party to the contract. The contract must contain all of the following obligations:

(1) The individual agrees to provide dental services in the dental health resource shortage area identified in the letter of intent for at least one year.

(2) The individual agrees to provide dental services for a minimum of 40 hours per week, provide dental services without regard to a patient's ability to pay, and meet the conditions for participation in the Medicaid program and enter into a

contract with the Department of Job and Family Services to provide dental services to Medicaid recipients.

(3) The Ohio Board of Regents agrees to repay, so long as the individual provides the required dental services, all or part of the principal and interest of a government or other educational loan taken by the individual. This amount is not to exceed $20,000 per year of service.

(4) The individual agrees to pay damages for failure to complete the agreed service obligation; if failure occurs during the first two years, three times the total amount the Board has agreed to repay and if failure occurs after the first two years, three times the amount the Board is still obligated to repay.

The contract may include any other terms agreed on by the parties including an assignment to the Board of Regents of the individual's duty to pay the principal and interest of a government or other education loan taken by the individual. If the Board of Regents assumes an individual's duty to pay a loan, the contract must set forth the total amount of principal and interest to be paid, an amortization schedule, and the amount of each payment to be made under the schedule. The Board must mail to an individual who enters into a contract under the bill, not later than January 31 of each year, a statement showing the amount of principal and interest repaid by the Board pursuant to the contract in the preceding year.

Dentist Loan Repayment Advisory Board

(R.C. 3702.92)

The bill creates the Dentist Loan Repayment Advisory Board. The Board is to consist of seven members: one member of the House of Representatives appointed by the Speaker, one member of the Senate appointed by the President, one representative of the Ohio Board of Regents appointed by the Chancellor, the Director of Health or an employee of the Department of Health designated by the Director, and three representatives of the dental profession appointed by the Governor from persons nominated by the Ohio Dental Association. The Governor's appointments are to be made no later than 90 days after the bill's effective date.

The terms of all members commence on the 91st day after the bill's effective date. Initially, the House of Representatives member is to serve a term of one year and the Senate member a term of two years. Of the members appointed by the Governor, two are to serve a term of one year and one a term of two years. Thereafter, all terms are to be two years. All members are to hold office until the end of the term for which the member was appointed, except that a legislative

member ceases to be a member of the Board on ceasing to be a member of the General Assembly.

Vacancies must be filled in the same manner as the original appointment. If a member does not finish out a term, the person appointed to fill the vacancy is to complete that term. A member is to continue in office after the expiration of the member's term until a successor takes office or 60 days have elapsed.

A member may be removed by the member's appointing authority for misfeasance, malfeasance, or willful neglect of duty.

The Board must designate a chairperson and meet at least once annually. The chairperson is to call special meetings as needed or on the request of six members. Six members constitute a quorum.

The members of the Board serve without compensation, but may be reimbursed for reasonable and necessary expenses. Staff assistance is to be provided by the Department of Health on the request of the Board.

Duties of the Dentist Loan Repayment Advisory Board

(R.C. 3702.93 and 3702.94)

The Board is required to determine the amounts that will be paid as loan repayments on behalf of participants in the Dentist Loan Repayment Program. No repayment is to exceed $20,000 in any year, unless a repayment results in an increase in the participant's federal, state, or local income tax liability. In that case, the Board of Regents, with the approval of the Director of Health and at the participant's request, may reimburse the participant for the increased tax liability, regardless of the amount of the repayment in that year. Total repayment under the program must not exceed $80,000 per participant.

The Board is required to submit an annual report to the General Assembly on or before March 1 describing the operations of the program during the previous calendar year. The report must include information about all of the following: the number of requests received by the Director of Health that an area be designated a dental health resource shortage area; the areas that have been designated as dental health resource shortage areas and the priorities assigned them; the number of applicants for participation in the Program; the number of dentists assigned to dental health resource shortage areas and the payments made on behalf of those dentists; the dental health resource shortage areas that have not been matched with all of the dentists they need; and the number of dentists failing to complete their service obligations, the amount of damages owed, and the amount of damages collected.

Funds

(R.C. 3702.95)

The bill creates two funds to implement the Dentist Loan Repayment Program. The Director of Health may accept gifts of money from any source for the administration of the Program and the Dentist Loan Repayment Advisory Board. Any gifts are to be deposited into the state treasury to the credit of the Dental Health Resource Shortage Area Fund. The Ohio Board of Regents may accept gifts from any source for administration of the Dentist Loan Repayment Program. These gifts and all damages collected when an individual fails to complete a service obligation are to be deposited into the state treasury to the credit of the Dentist Loan Repayment Fund.

Increase in fees

(R.C. 4715.13 and 4715.14)

The bill increases licensing fees for dentists. The fee for a license, if issued in an odd-numbered year, is increased to $200 (from $190). The fee for a license, if issued in an even-numbered year, is increased to $337 (from $317). Ten dollars of each of these fees collected in an odd-numbered year, and $20 of each of these fees collected in an even-numbered year are to be deposited in the Dentist Loan Repayment Fund. Twenty dollars of each biennial registration fee is also to be deposited in the Dentist Loan Repayment Fund.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-12-03	pp. 180-181
Reported, S. Health, Human Services, & Aging	---	---

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