



# Ohio Legislative Service Commission

## Bill Analysis

Matthew Magner

### Sub. H.B. 463\*

130th General Assembly

(As Reported by S. Medicaid, Health, and Human Services)

**Reps.** Johnson, Duffey, Roegner, Scherer, Milkovich, Blessing, Schuring, Bishoff, Young, Hackett, Stinziano, Smith, Stebelton, Rosenberger, R. Adams, Grossman, Celebrezze, Sears, Barnes, Hill, Amstutz, Perales, Terhar, Thompson, Retherford, Lundy, Barborak, Wachtmann, Sprague, Antonio, Baker, Beck, Boose, Brown, Buchy, Budish, Burkley, Butler, Cera, DeVitis, Dovilla, Driehaus, Green, C. Hagan, Hall, Hayes, Landis, Letson, Mallory, McClain, O'Brien, Patterson, Rogers, Romanchuk, Ruhl, Sheehy, Slaby, Strahorn, Sykes, Winburn, Batchelder

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## BILL SUMMARY

- Permits applicants for a license to practice dentistry to fulfill one of the licensing requirements by completing an approved dental residency program.
- Increases the licensing fee paid by dentists.
- Clarifies the role of the coordinator of the Quality Intervention Program.
- Increases by three the number of consecutive terms a hearing referee or examiner may serve.
- Creates the Dental Hygienist Loan Repayment Program.
- Modifies the scopes of practice that apply to the following dental personnel while a supervision dentist is not physically present: dental hygienists, certified dental assistants, expanded function dental auxiliaries, and dental x-ray operators.
- Increases the number of dental hygienists who may practice under the supervision of the same dentist.

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

- Repeals a provision that limits which dentist to whom a dental hygienist must refer a patient as part of the Oral Health Access Supervision Program.
- Expands the scopes of practice of certified dental assistants and expanded function dental auxiliaries.
- Establishes a temporary volunteer's certificate that authorizes a dentist or dental hygienist not licensed in Ohio to provide free dental services in Ohio for seven days.
- Includes higher education programs that recruit students in the field of dentistry to the list of programs that are eligible for awards under the Ohio Innovation Partnership.
- Creates the Medicaid Payment Rates for Dental Services Workgroup to study the issue of Medicaid payment rates for dental services.
- Requires the State Dental Board to submit a report on the impact of allowing the completion of a dental residency program to fulfill a licensing eligibility requirement.

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## CONTENT AND OPERATION

### Application for a license to practice dentistry

#### Dental residency program

The bill permits an applicant for a license to practice dentistry to fulfill one of the license eligibility requirements by completing a dental residency program. Under current law, an applicant must, in addition to other requirements, fulfill any one of the following requirements:

- (1) Receive a passing score on each component of an examination administered by a regional testing agency;
- (2) Receive a passing score on an examination administered by the State Dental Board;
- (3) Possess a dental license in good standing from another state and have practiced dentistry in another state or for the federal government for five years immediately preceding the application.<sup>1</sup>

The bill expands this list to include the completion of a dental residency program that has been accredited or approved by the Commission on Dental Accreditation and is administered by an accredited dental college or hospital.<sup>2</sup>

#### Dental license fee increase

The bill increases the fee for a license to practice dentistry to \$210 (from \$200) for a license issued in an odd-numbered year and to \$57 (from \$37) for a license issued in an even-numbered year.<sup>3</sup> The bill also increases the portion of the fee that is paid to the Dentist Loan Repayment Fund to \$40 (from \$20) for a license issued in an odd-numbered year and to \$20 (from \$10) for a license issued in an even-numbered year.<sup>4</sup>

### Quality Intervention Program

The bill clarifies the role of the coordinator of the Quality Intervention Program (QUIP). QUIP provides educational and assessment services to certain dental

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<sup>1</sup> R.C. 4715.10(D).

<sup>2</sup> R.C. 4715.10(D)(4).

<sup>3</sup> R.C. 4715.13(A)(1).

<sup>4</sup> R.C. 4715.13(B).



professionals who, due to a clinical or communication problem, have violated dental profession laws. The bill specifies that the coordinator of QUIP is to provide oversight of the program and authorizes the coordinator to delegate duties to members and employees of the State Dental Board as the coordinator considers appropriate.<sup>5</sup>

### **Referee and examiner term limits**

The bill increases by three the number of consecutive one-year terms that a referee or examiner who conducts adjudicatory hearings for the Board may serve. Under the revised term limits, the initial appointee may serve no more than six consecutive terms, the second appointee may serve no more than seven consecutive terms, and all other appointees may serve no more than eight consecutive terms.<sup>6</sup> The bill specifies that the new term limits are to apply even to those referees and examiners who are serving in that capacity on the bill's effective date.<sup>7</sup>

## **Dental Hygienists**

### **Dental Hygienist Loan Repayment Program**

The bill creates the Dental Hygienist Loan Repayment Program. The program is to provide loan repayment on behalf of individuals who agree to provide dental hygiene services in areas designated as dental health resource shortage areas by the Director of Health. The Ohio Department of Health (ODH) is required to administer the Program in cooperation with the Dentist Loan Repayment Advisory Board.

Under the Program, ODH 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 hygiene school.<sup>8</sup> The Director is required to adopt rules in consultation with the Advisory Board to implement the Program.<sup>9</sup>

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<sup>5</sup> R.C. 4715.031.

<sup>6</sup> R.C. 4715.037(B)(1).

<sup>7</sup> Section 5 of the bill.

<sup>8</sup> R.C. 3702.96.

<sup>9</sup> R.C. 3702.961.



## **Dental health resource shortage areas**

The Director of Health must, by rule, establish priorities among the dental health resource shortage areas for use in recruiting dental hygienists to sites within particular areas under the Program. The Director is to consider (1) dental health status indicators of the target population in the area, (2) the presence of dental health care provider sites in the area with vacancies for dental hygienists, (3) the availability of an eligible candidate interested in being recruited to a particular site within an area, and (4) 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 dental hygienists.

The Director is to establish, by rule, priorities for use in determining eligibility among applicants for participation in the 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 hygiene 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.<sup>10</sup>

## **Requirements for application**

To be eligible to apply to participate in the Program, an individual must not have an outstanding obligation for dental hygiene service to the federal government, a state, or any other entity at the time of participation and must either be enrolled in the final year of dental hygiene school or hold a valid license to practice dental hygiene in Ohio.<sup>11</sup>

The application must be submitted to the Director of Health on a form the Director is required to prescribe and must include all of the following information:

- (1) The applicant's name, address, and telephone number;
- (2) The name of the dental hygiene school the applicant attended or is attending and dates and verification of attendance;
- (3) A summary and verification of the educational expenses for which the applicant seeks reimbursement under the Program;
- (4) If the applicant is a licensed dental hygienist, verification of the applicant's license to practice dental hygiene in Ohio and proof of good standing;

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<sup>10</sup> R.C. 3702.962.

<sup>11</sup> R.C. 3702.963(A).



(5) Verification of the applicant's United States citizenship or status as a legal alien.<sup>12</sup>

The Director 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 Dental Hygienist Loan Repayment Fund, and the General Assembly has appropriated the funds for the Program. In making this determination, the Director is required to consult with the Ohio Dental Hygienists' Association.<sup>13</sup>

#### **Contract with Director of Health**

Once approved, the applicant may enter into a contract with the Director for participation in the Program. The dental hygienist's employer or other funding source may also be a party to the contract. The contract must contain all of the following obligations:

(1) The individual agrees to provide dental hygiene services in the dental health resource shortage area for the agreed upon amount of time;

(2) ODH agrees to repay, so long as the individual provides the required dental hygiene services, all or part of the principal and interest of a government or other educational loan;

(3) The individual agrees to pay damages for failure to complete the agreed service obligation.<sup>14</sup>

The contract must also include the following terms agreed upon by the parties:

(1) The site where the dental hygiene services are to be performed;

(2) The dental hygienist's required length of service, which must be at least two years;

(3) The number of weekly hours the dental hygienist will be engaged in part-time or full-time practice;

(4) The maximum amount that the Department will repay on behalf of the dental hygienist;

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<sup>12</sup> R.C. 3702.963(B).

<sup>13</sup> R.C. 3702.964.

<sup>14</sup> R.C. 3702.965(B).



(5) The extent to which the dental hygienist's teaching activities will be counted toward the full-time or part-time practice hours.

The bill defines part-time practice as working between 20 and 39 hours per week for at least 45 weeks per year and full-time practice as working at least 40 hours per week for at least 45 weeks per year. "Teaching activities" is defined as supervising dental hygiene students at the service site specified in the contract.

The bill requires the Department to consult with the Ohio Dental Hygienists' Association before agreeing to the maximum amount of repayment in the contract. For those participants whose repayment includes funds from the Bureau of Clinician Recruitment and Service in the U.S. Department of Health and Human Services, the bill specifies that the amount of state funds used for the participant's repayment must match the amount of the federal funds.<sup>15</sup>

#### **Duties of the Dentist Loan Repayment Advisory Board**

The Advisory Board is required to submit an annual report to the Governor and 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:

(1) The number of requests received by the Director that an area be designated a dental health resource shortage area;

(2) The areas that have been designated as dental health resource shortage areas and the priorities assigned them;

(3) The number of applicants for participation in the Program;

(4) The number of dental hygienists assigned to dental health resource shortage areas and the payments made on behalf of those participants;

(5) The dental health resource shortage areas that have not been matched with all of the dental hygienists they need;

(6) The number of dental hygienists failing to complete their service obligations, the amount of damages owed, and the amount of damages collected.<sup>16</sup>

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<sup>15</sup> R.C. 3702.965.

<sup>16</sup> R.C. 3702.966.



## **Funding for Dental Hygienist Loan Repayment Program**

The bill creates two funds to implement the Dental Hygienist Loan Repayment Program: the Dental Hygiene Resource Shortage Area Fund (DHRSAF) and the Dental Hygienist Loan Repayment Fund (DHLRF). The Director of Health may accept gifts of money from any source, which are to be deposited into the state treasury to the credit of the DHRSAF. 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 DHLRF.<sup>17</sup> Both funds are to be used for the implementation and administration of the DHLRF.

### **Increase in registration fees**

The bill increases the biennial registration fee for dental hygienists to \$115 from \$105. Ten dollars of each biennial registration fee is to be paid to the DHLRF.<sup>18</sup>

### **Supervision by licensed dentist**

The bill increases the number of dental hygienists who may practice under the supervision of the same dentist to four dental hygienists. Continuing law requires a dental hygienist to practice under the supervision and full responsibility of a licensed dentist, and current law prohibits more than three dental hygienists from practicing under the supervision of the same dentist.<sup>19</sup>

The bill also revises laws governing the practice of a dental hygienist when the supervising dentist is not physically present. Continuing law generally prohibits a dental hygienist from providing dental hygiene services unless the supervising dentist is physically present. An exception permits a dental hygienist to provide, for no more than 15 consecutive business days, dental hygiene services when the supervising dentist is not physically present if certain conditions are satisfied. Under current law, one such condition is that the supervising dentist must have examined the patient within the preceding seven months. The bill increases that time period from seven months to one year.<sup>20</sup> The bill also decreases the amount of experience to one year and a minimum of 1,500 hours (from two years and 3,000 hours) that a dental hygienist must have in order

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<sup>17</sup> R.C. 3702.967.

<sup>18</sup> R.C. 4715.24.

<sup>19</sup> R.C. 4715.23.

<sup>20</sup> R.C. 4715.22(C)(6).



to provide dental hygiene services when the supervising dentist is not physically present pursuant to this exception.<sup>21</sup>

Additionally, under current law, the State Dental Board is required to adopt rules identifying procedures that a dental hygienist may not perform when practicing in the absence of the supervising dentist.<sup>22</sup> The bill prohibits the Board from identifying the re-cementation of temporary crowns or the re-cementation of crowns with temporary cement as such procedures.

The bill creates an additional exception to the general rule that a dental hygienist may not provide dental hygiene services unless the supervising dentist is physically present. The bill permits a dental hygienist to apply fluoride varnish, apply desensitizing agents, and discuss general nonmedical nutrition information for the purpose of maintaining good oral health when the supervising dentist is not physically present, if the dental hygienist is employed by, or under contract with, the supervising dentist or other persons associated with the supervising dentist, or a government entity that employs the dental hygienist to provide dental hygiene services in a public school or in connection with other programs the government entity administers. A dental hygienist may provide these services regardless of whether a dentist has examined the patient.

The bill defines "general nonmedical nutrition information" as information on the principles of good nutrition and food preparation, food to be included in the normal daily diet, the essential nutrients needed by the body, recommended amounts of the essential nutrients, the actions of nutrients on the body, the effects of deficiencies or excesses of nutrients, and food and supplements that are good sources of essential nutrients.<sup>23</sup>

### **Oral Health Access Supervision Program**

The bill modifies the requirements to participate in the Oral Health Access Supervision Program (OHASP), which allows dentists to authorize dental hygienists to perform dental hygiene services in the absence of a dentist, as long as certain conditions are met.<sup>24</sup> The bill decreases the amount of experience to one year and a minimum of 1,500 hours (from two years and 3,000 hours) that a dental hygienist must have in order

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<sup>21</sup> R.C. 4715.22(C)(1).

<sup>22</sup> R.C. 4715.22(F).

<sup>23</sup> R.C. 4715.22(E).

<sup>24</sup> R.C. 4715.365.



to obtain a permit to participate in OHASP.<sup>25</sup> The bill also specifies that payment for the permit may be made by personal check or credit card.<sup>26</sup>

Current law requires the State Dental Board to publish an online directory containing the names and contact information of the dentists and dental hygienists who hold valid OHASP permits.<sup>27</sup> The bill requires the Board to include in the directory the electronic mail addresses of those dentists and dental hygienists.

After dental hygiene services are completed under OHASP, current law requires the dental hygienist to direct the patient to a dentist for a clinical evaluation and to schedule or cause to be scheduled an appointment for the patient with the dentist.<sup>28</sup> Current law provides that the dentist to whom the patient is directed must be the same dentist who authorized the performance of the dental hygiene services, and the dental hygienist must make every attempt to schedule the patient's appointment not later than 90 days after the completion of the dental hygiene services.<sup>29</sup> The bill instead requires the dental hygienist to direct the patient to any dentist and requires the appointment to be scheduled not later than six months after the completion of the services.

## **Dental assistants and expanded function dental auxiliaries**

### **Services provided in the absence of a supervising dentist**

Both dental assistants and expanded function dental auxiliaries (EFDAs) must practice under the supervision of a licensed dentist.<sup>30</sup> The bill permits dental assistants who are certified by the Dental Assisting National Board or the Ohio Commission on Dental Assistant Certification and EFDAs to provide certain services for not more than 15 consecutive business days in the absence of the supervising dentist if the following conditions are met:

(1) The certified dental assistant (CDA) or EFDA has at least two years and a minimum of 3,000 hours of experience.

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<sup>25</sup> R.C. 4715.363(B)(1).

<sup>26</sup> R.C. 4715.363(A).

<sup>27</sup> R.C. 4715.371.

<sup>28</sup> R.C. 4715.366(A)(2).

<sup>29</sup> R.C. 4715.366(B).

<sup>30</sup> R.C. 4715.39(E) and 4715.64(B).



(2) The CDA or EFDA has completed an approved course in the identification and prevention of potential medical emergencies.

(3) The supervising dentist has evaluated the CDA's or EFDA's skills.

(4) The supervising dentist examined the patient not more than one year prior to the date of the services.

(5) The supervising dentist has established written protocols or written standing orders for the CDA or EFDA to follow during and in the absence of an emergency.

(6) The supervising dentist completed and evaluated a medical and dental history of the patient not more than one year prior to the date of the services, and the supervising dentist determines that the patient is in a medically stable condition.

(7) In advance of the appointment for services, the patient is notified that the supervising dentist will be absent from the location and that the CDA or EFDA cannot diagnose the patient's health care status.

(8) The CDA or EFDA is employed by, or under contract with, the supervising dentist, a licensed dentist, or a government entity that employs the CDA or EFDA to provide services in a public school or in connection with other programs the government entity administers.<sup>31</sup>

The bill also enumerates those services that a CDA or an EFDA may provide in the absence of the supervising dentist when the above conditions are met. For both professionals, those services are the re-cementation of temporary crowns and the re-cementation of crowns with temporary cement; the application of fluoride varnish, disclosing solutions, and desensitizing agents; caries susceptibility testing; and instruction in oral hygiene home care.<sup>32</sup> For an EFDA, the list of services also includes the application of topical fluoride and pit and fissure sealants. For a CDA, the list of services also includes the application of pit and fissure sealants if the following additional conditions are met:

(1) The CDA has successfully completed an approved course in the application of sealants.

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<sup>31</sup> R.C. 4715.39(D)(1) and 4715.64(C).

<sup>32</sup> R.C. 4715.39(D)(2) and 4715.64(C).



(2) The supervising dentist has observed the CDA successfully apply at least six sealants.<sup>33</sup>

The bill further permits CDAs and EFDAs to apply pit and fissure sealants prior to a dentist examining a patient and when the supervising dentist is not physically present if the following conditions are met:

(1) The services are provided as part of a program operated through a local board of education or the governing board of an educational service center, a local board of health or the authority having the duties of a board of health, a dental association, or any other entity recognized by the State Dental Board.

(2) The program includes a supervising dentist who is employed by or a volunteer for, and the patients are referred by, the entity that is operating the program and the dentist is available for consultation by telephone or other means of electronic communication.

(3) Pit and fissure sealants are applied only to erupted permanent posterior teeth and there is no suspicion that a cavity exists.

(4) If the patient is a minor, a parent or other person who is responsible for the patient is notified that a dentist will not be present.

(5) The CDA or EFDA meets the all of the conditions described above that must be satisfied to be permitted to apply, for no more than 15 consecutive business days, pit and fissure sealants when the supervising dentist is not present.<sup>34</sup>

## **Dental x-ray machine operators**

Current law permits a dental x-ray machine operator to perform radiologic procedures only if a dentist is providing direct supervision. The bill creates an exception to this requirement by permitting a dental x-ray machine operator to perform radiologic procedures when the supervising dentist is not physically present if the dentist examined the patient within the preceding year and ordered the procedures.<sup>35</sup>

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<sup>33</sup> R.C. 4715.39(D)(3).

<sup>34</sup> R.C. 4715.39(D)(3) and 4715.64(D).

<sup>35</sup> R.C. 4715.56(B).



## Temporary volunteer's certificate

The bill requires the State Dental Board to issue temporary volunteer's certificates to qualified applicants. The certificate permits dentists and dental hygienists not licensed in Ohio to provide dental services in Ohio on a voluntary basis.<sup>36</sup> The certificate is to be valid for seven days and may be renewed. The bill permits the Board to charge no more than \$25 for issuing or renewing the certificate.<sup>37</sup>

The bill specifies that a certificate holder may not perform any operation, except in the case of a dental emergency, and may not accept any form of remuneration for providing dental services in Ohio.<sup>38</sup> It further specifies that a certificate holder is covered by the qualified immunity that applies to volunteer health care professionals who provide services to indigent and uninsured individuals.<sup>39</sup>

To obtain a certificate, the bill requires an applicant to provide a copy of the applicant's degree from an accredited dental college or an accredited dental hygiene school and establish that the applicant either (1) holds a valid license to practice dentistry or dental hygiene in any United States jurisdiction or (2) is practicing dentistry or dental hygiene in a branch of the United States armed services.<sup>40</sup> The Board is required to issue a wallet certificate to each qualified applicant, and the applicant must keep the wallet certificate on the applicant's person while providing dental services.<sup>41</sup>

If the Board determines that a certificate holder has violated Ohio laws pertaining to the practices of dentistry or dental hygiene, the bill authorizes the Board to revoke the certificate.<sup>42</sup> The bill specifies that a certificate cannot be renewed if it was previously revoked.

The bill requires the Board to maintain a register of certificate holders<sup>43</sup> and, within 90 days of the bill's effective date, to make the application form and instructions

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<sup>36</sup> R.C. 4715.421(B).

<sup>37</sup> R.C. 4715.421(E)(2).

<sup>38</sup> R.C. 4715.421(D).

<sup>39</sup> R.C. 4715.421(E)(3); see also R.C. 2305.234, not in the bill.

<sup>40</sup> R.C. 4715.421(C).

<sup>41</sup> R.C. 4715.421(E)(2).

<sup>42</sup> R.C. 4715.421(D).

<sup>43</sup> R.C. 4715.421(E)(1).



available on its website.<sup>44</sup> The bill authorizes the Board to adopt rules to administer the certificate program.<sup>45</sup>

## **Ohio Innovation Partnership**

The bill includes state university and college programs that recruit students and scientists in the field of dentistry to the list of programs that are eligible for awards from the Ohio Innovation Partnership (OIP).<sup>46</sup> Under current law, state universities and colleges are eligible for awards from OIP for programs and initiatives that recruit students and scientists in the fields of science, technology, engineering, mathematics, and medicine. As part of OIP, the Choose Ohio First Scholarship Program (COFSP) awards scholarships to eligible students in one of these fields as a grant to the state university that the student is attending. The bill makes students in the field of dentistry eligible for a COFSP grant.

## **Medicaid Payment Rates for Dental Services Workgroup**

The bill creates the Medicaid Payment Rates for Dental Services Workgroup to study the issue of Medicaid payment rates for dental services. By December 31, 2014, the Workgroup is required to submit a report that includes recommendations regarding Medicaid payment rates for dental services. The Workgroup ceases to exist upon the submission of its report to the Governor and the General Assembly.<sup>47</sup>

The bill specifies that the Workgroup is to consist of the following:

- (1) The Medicaid Director or the Director's designee;
- (2) The Director of Health or the Director's designee;
- (3) A member of the Senate from the majority party appointed by the President of the Senate;
- (4) A member of the Senate from the minority party appointed by the President of the Senate;
- (5) A member of the House of Representatives from the majority party appointed by the Speaker of the House;

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<sup>44</sup> R.C. 4715.421(G).

<sup>45</sup> R.C. 4715.421(F).

<sup>46</sup> R.C. 3333.61.

<sup>47</sup> Section 3(E).



(6) A member of the House of Representatives from the minority party appointed by the Speaker of the House;

(7) Four dentists who have valid Medicaid provider agreements and practice in different geographic areas of Ohio, appointed by the executive director of the Ohio Dental Association.<sup>48</sup>

The members of the Workgroup are to be appointed within 30 days of the bill's effective date.<sup>49</sup> The bill states that the members are neither to be paid for their services, except to the extent that those services are a part of their regular employment duties, nor reimbursed for the expenses incurred in serving on the Workgroup.

The Medicaid Director or the Director's designee is to serve as the Workgroup's chairperson, and the Workgroup is to meet at the call of the chairperson.<sup>50</sup> Staff and other support services are to be provided by the Department of Medicaid.<sup>51</sup>

### **Dental residency program report**

The bill requires the State Dental Board to submit a report to the Governor and the General Assembly regarding the impact of the provision that permits an applicant for a license to practice dentistry to fulfill a licensing requirement by completing a dental residency program. The report is to be submitted within three years of the bill's effective date and include the following:

(1) The number of dentists who fulfilled the requirement by completing a dental residency program;

(2) The number of dentists who completed the program in Ohio and the number of dentists who completed it in another state;

(3) The number of dentists who completed the program and later renewed the license;

(4) The office address of each dentist who completed the program;

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<sup>48</sup> Section 3(A).

<sup>49</sup> Section 3(B).

<sup>50</sup> Section 3(C).

<sup>51</sup> Section 3(D).



(5) Any other information the Board considers necessary to evaluate the impact of the amendment.<sup>52</sup>

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## HISTORY

ACTION	DATE
Introduced	02-27-14
Reported, H. Health & Aging	05-28-14
Passed House (95-0)	06-03-14
Reported, S. Medicaid, Health & Human Services	---

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<sup>52</sup> Section 4.

