SPONSOR: Sen. S. McBride & Sen. Brown & Rep. Minor-Brown
Sens. Bonini, Ennis, Gay, Hansen, Hocker, Lawson, Lockman, Lopez, Mantzavinos, Paradee, Pettyjohn, Pinkney, Poore, Richardson, Sokola, Sturgeon, Townsend, Walsh, Wilson; Reps. Baumbach, Heffernan, Kowalko, Lynn, Morrison, Osienski

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 277

AN ACT TO AMEND TITLE 16 AND TITLE 24 OF THE DELAWARE CODE RELATING TO DENTISTRY AND DENTAL HYGIENE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 1121, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1121. License required.

(c) A licensed dental hygienist may practice under the general supervision of the State Dental Director, or the State Dental Director's designee, who shall be a licensed Delaware dentist, in schools and state institutions. A licensed dental hygienist may also practice under the general supervision of the State Dental Director, or the State Dental Director's designee, who shall be a Delaware licensed dentist, in federally qualified health centers, nonprofit ~~organizations~~ organizations, and other locations as designated by the Delaware Health Care Commission in consultation with ~~DIDER.~~ Delaware Institute for Dental Education and Research. The protocols under which hygienists practice in these settings will be established by the State Dental Director and shall be subject to the approval of the Delaware State Board of Dentistry and Dental Hygiene.

(d) The State Dental Director ~~shall~~ must be a Delaware licensed ~~dentist. In the event that the State Dental Director does not have a Delaware dental license when hired, the State Dental Director must obtain a Delaware license within 2 years of assuming the position. The Board may grant a temporary license for a period no longer than 2 years to the State Dental Director, provided the State Dental Director has met all the licensure requirements except successful completion of the practical exam. The authority to practice dentistry under such a temporary license will be limited to the performance of the duties as the State Dental Director.~~ dentist or have a community health license under § 1132B of this title. The State Director is an employee of a government-operated dental clinic.

Section 2. Amend § 1122, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1122. Qualifications of ~~applicant;~~ applicant for Delaware-specific dental license; report to Attorney General; judicial review.

(a) An applicant who is applying for licensure as a dentist under this ~~chapter~~ section shall submit evidence, verified by oath and satisfactory to the Board, that ~~such person~~ the applicant meets all of the following:

(1) Has received a degree in dentistry from an accredited dental college or university accredited by the Commission on Dental Accreditation of the American Dental Association.

(2) Before matriculating in a dental college or university, has completed at least 2 years of undergraduate study in an accredited college or university.

(3) ~~Has acquired 1 year's~~ Meets 1 of the following:

a. Has acquired 1 year's experience as a dental intern within a general practice residency accredited by the Commission on Dental Accreditation of the American Dental Association ~~(CODA) or~~ ("CODA").

b. ~~has completed~~ Has completed a ~~CODA approved~~ CODA-approved specialty residency with those specific rotations identified in the Board's rules and ~~regulations, or if applying by reciprocity has had 3 years of active dental practice in another state or territory of the United States.~~ regulations.

(4) Has achieved ~~the~~ a passing score on ~~all examinations prescribed by the Board.~~ the Delaware jurisprudence and National Board of Dental Examiners' examinations.

(5) Has successfully completed the Delaware practical examination under § 1123 of this title.

Section 3. Amend § 1123, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1123 Examinations.

(a)(1) An applicant applying ~~to take the Delaware practical (clinical) examination shall submit evidence, verified by oath satisfactory to the Board, that such persons:~~ for licensure by examination shall successfully pass, with a score established by the Board, a validated practical examination prepared and administered by the Board.

(2) The examination required under paragraph (a)(1) of this section must be validated as to content and scoring by a member of the faculty of an accredited school of dentistry who meets all of the following:

a. Is not licensed to practice dentistry in this State.

b. Is selected by the Division and the Board.

~~(2)~~(3) ~~When applying as a dental hygienist, has fulfilled the requirements set forth within § 1122 (b)(1)-(3) of this title.~~ An applicant who has failed the practical examination 3 times may not take the examination again unless the applicant can provide evidence of mitigating circumstances to the satisfaction of the Board.

(b) ~~An applicant applying for licensure shall~~ An applicant applying for licensure by examination shall submit evidence, verified by oath satisfactory to the Board, that the person meets the following:

(1) ~~Successfully pass, with a score established by the Board a validated practical examination prepared and administered by the Board. A practical test in dentistry or dental hygiene prepared by the Board and its method of administration shall be validated as to content and scoring by a member of the faculty of an accredited school of dentistry. Such faculty member shall not be licensed to practice dentistry in Delaware and shall be agreed upon by the Division and the Board. An applicant who has failed the practical examination 3 times may not take the examination again unless the applicant can provide evidence of mitigating circumstances to the satisfaction of the Board.~~ If applying for licensure as a dentist, that the person meets all of the following:

a. Has received a degree in dentistry from a dental college or university accredited by the Commission on Dental Accreditation of the American Dental Association.

b. Has submitted proof satisfactory to the Board that the applicant has successfully completed the National Board of Dental Examiners' examinations in dentistry with a passing score established by the Board.

c. Has successfully passed a written jurisprudence examination on Delaware laws pertaining to dentistry.

(2) ~~Fore licensure as a dentist, submit proof satisfactory to the Board that the applicant has successfully completed the National Board of Dental Examiners' examinations in dentistry with a passing score established by the Board; for licensure as a dental hygienist, submit proof satisfactory to the Board that the applicant has successfully passed the National Board of Dental Examiners' examination in dental hygiene.~~ If applying for licensure as a dental hygienist, that the person meets all of the following:

a. Has fulfilled the requirements under § 1122(b) of this title.

b. Has submitted proof satisfactory to the Board that the applicant has successfully passed the National Board of Dental Examiners' examination in dental hygiene with a passing score established by the Board.

c. Has successfully passed a written jurisprudence examination on Delaware laws pertaining to dental hygiene.

(3) ~~For licensure as a dentist, successfully pass a written jurisprudence examination on Delaware laws pertaining to dentistry; for licensure as a dental hygienist, successfully pass a written jurisprudence examination on Delaware laws pertaining to dental hygiene.~~ [Transferred to paragraph (b)(1)c. and paragraph (b)(2)c., respectively.]

(c) All examinations ~~shall~~ under this section must be approved by the Division and the Board.

Section 4. Amend § 1124, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1124. Dentists and dental hygienist licensed in other jurisdictions.

(a) ~~Upon~~ On payment of the appropriate fee and submission and acceptance of a written application on forms provided by the Board, the Board shall grant a license to practice dentistry or dental hygiene to each ~~applicant,~~ applicant who ~~shall present~~ presents proof of current licensure in "good standing" in another state, the District of Columbia, or territory of the United ~~States,~~ States and who meets all of the following criteria:

(1) Has maintained the applicant's license in "good standing" and has satisfied all requirements of § 1122(c)~~(2) (7)~~(2) through (7) of this title.

(2) ~~Shall subject to subsection (b) of this section, have~~ For licensure as a dental hygienist, meet all of the following:

a. Has practiced for a minimum of 3 of the last 5 years in the state in which the applicant currently is or has been licensed.

b. Has passed the examinations required ~~in § 1123(b) (1), (2) and (3)~~ under § 1123(b)(2)b. and (b)(2)c. of this title.

(3) For licensure as a dentist, meet all of the following:

a. ~~has~~ Has received a degree in dentistry from an accredited dental college or university accredited by the Commission on Dental Accreditation of the American Dental Association.

b. Has submitted proof that the applicant has had 3 years of active dental practice in another state, the District of Columbia, or a territory of the United States.

c. The requirements under § 1122(a)(1), (2), (4), and (5) of this title.

(4) ~~For licensure as a dentist, shall submit proof that the applicant has had 3 years of active dental practice in another state, the District of Columbia or a territory of the United States.~~ [Transferred to paragraph (a)(3)b. of this section.]

(5) ~~Shall submit proof of current~~ Has submitted proof of a valid certification in cardiopulmonary resuscitation (CPR) technique in accordance with regulations adopted by the Board.

(b) ~~An applicant for licensure as a dental hygienist, who shall have practiced for a minimum of 3 of the last 5 years in the state in which the applicant currently is or has been licensed, may be licensed provided that the applicant meets the qualifications of paragraphs (a)(1), (2), and (5) of this section, except for the completion of the practical examination.~~ [Transferred to paragraph (a)(2)a. of this section.]

(c) ~~All applicants~~ An applicant for licensure under this section shall have remained academically ~~current~~ current, through continuing education or otherwise, as determined by the Board.

Section 5. Amend § 1132A, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1132A. Academic license – Director or chairperson of a hospital dental or hospital oral and maxillofacial surgery residency program.

(a) ~~Upon~~ On completion of an application approved by the Board and payment of a fee established by the Division, in accordance with § 1125 of this title, the Board may issue an academic license to an applicant for licensure as a dentist who has fulfilled the following requirements:

(4) The applicant furnishes proof satisfactory to the Board that the applicant has been appointed a full-time director, ~~chairperson~~ chairperson, or an attending faculty member of a hospital based dental, oral and maxillofacial ~~surgery~~ surgery, or other dental specialty residency program of a hospital system that is based in Delaware and that is accredited by, is ~~establishing~~ establishing, or has received Initial Accreditation by the Commission on Dental Accreditation of the American Dental Association (CODA) for the purposes of teaching.

(h) ~~Any~~ An individual who received an academic license under this section ~~prior to these changes~~ before June 19, 2014, may retain ~~an~~ the academic license ~~as long as~~ if the license remains in good standing and is renewed consecutively.

Section 6. Amend § 1132B, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1132B. ~~Provisional license~~ Community health license to care for underserved populations – Dentists practicing in federally qualified health centers ("FQHCs") or in ~~the Division of Public Health.~~ government-operated dental clinics.

(a) ~~Upon~~ On completion of an application approved by the Board and payment of a fee established by the Division, the Board shall issue a ~~provisional license~~ community health license to care for underserved populations to an applicant ~~for licensure as a dentist who has fulfilled the requirements of § 1122(a)(1), (2) and (3) of this title, has completed a general practice residency, or holds both a license in another jurisdiction and 3 years of practice experience, and~~ who furnishes proof satisfactory to the Board that the applicant has contracted to be an employee with a federally qualified health center ~~(FQHC) or with the Division of Public Health. General supervision by a Delaware licensed dentist must be provided by the employer for eligible applicants. Eligible FQHC organizations must include the provision of care for medically indigent patient populations in their mission.~~ ("FQHC") or a government-operated dental clinic, for purposes of providing care to traditionally underserved populations.

(b) ~~The provisional~~ A community health license to care for underserved populations entitles the applicant to practice dentistry ~~only~~ as follows:

(1) ~~In the FQHC that is designated and only on bona fide patients of the FQHC under the direction of a licensed dentist employed at the FQHC or on the staff of the FQHC. If the supervising dentist becomes unable or unavailable to provide direction, the FQHC must contract with a Delaware licensed dentist to provide direction for the holder of a provisional license.~~ On individuals served by the FQHC, including during community or outreach events serving underserved populations, or on the staff of the FQHC.

(2) For ~~the Division of Public Health under the direction of the State Dental Director or State Dental Director's licensed dentist designee.~~ a government-operated dental clinic.

(c) ~~The provisional license entitles the applicant to practice dentistry for a 2 year period from the date of issuance and may not be renewed. The applicant must fulfill the requirements of § 1123(b)(1) of this title within the 2 year period and must take the Delaware practical examination at least once within the first year of the provisional license unless the Board grants an extension to the applicant for good cause. The provisional license converts to a full license once the holder passes the practical examination and fulfills the requirements of § 1123(b)(1) of this title. The requirements of §§ 1122(a)(4) and 1123(b)(2) and (3) of this title must be met by the end of the 2 year period. If these requirements are not fulfilled, the Board may deny full licensure.~~ To obtain a community health license to care for underserved populations at an FQHC or government-operated dental clinic, an individual must meet all of the following requirements:

(1) Has received a degree in dentistry from an accredited dental college or university accredited by the Commission on Dental Accreditation of the American Dental Association.

(2) Before matriculating in a dental college or university, has completed at least 2 years of undergraduate study in an accredited college or university.

(3) Achieve a passing score on the Delaware jurisprudence and National Board of Dental Examiners' examinations.

(4) Does 1 of the following:

a. Takes and passes the Delaware practical examination under § 1123 of this title.

b. Takes and passes a nationally-recognized dental exam given by one of the following or a nationally recognized regional board exam that the Board deems substantially similar to the following:

1. The Council of Interstate Testing Agencies ("CITA").

2. The Central Regional Dental Testing Services ("CRDTS").

3. The Commission on Dental Competency Assessments ("CDCA"), formerly the North East Regional Board of Dental Examiners ("NERB").

4. The Southern Regional Testing Agency ("SRTA").

5. The Western Regional Examining Board ("WREB").

(d)(1) ~~The applicant for provisional license shall comply with the provisions of § 1122(c)(1) through (7) of this title.~~ A community health license to care for underserved populations becomes a license under § 1122 of this title once the holder submits proof to the Board that the holder completed 3600 hours over 2 years at an FQHC or a government-operated dental clinic. Hours are limited to a maximum of 40 hours per week, of which at least 32 hours per week must be in providing care for patients at the approved site and only up to 8 hours per week may be for performing clinical-related administrative activities.

(2) If an applicant seeks a license under § 1122 of this title before completing 2 years of service at an FQHC or a government-operated dental clinic, the applicant must comply with §§ 1122(a)(3) and 1123 of this title.

(3) If the requirements of this subsection are not fulfilled, the Board may deny a license under § 1122 of this title.

(e) The holder of a ~~provisional license is bound by~~ community license to care for underserved populations shall comply with all other applicable provisions of this chapter.

(f)(1) ~~The provisional license expires after the second year has been completed. The Board may grant an extension of the provisional license for up to 6 months for good cause demonstrated by the provisional license holder.~~ A community health license to care for underserved populations expires after 2 years of service at an FQHC or a government-operated dental clinic has been completed, or after a pending application for a license under § 1122 of this title has been approved, whichever comes later.

(2) The Board may grant an extension of the community health license for good cause demonstrated by the holder of the license.

Section 7. Amend § 9941, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9941. Creation of a Board.

(a) There is ~~hereby~~ established the Board of Directors of the Delaware Institute for Dental Education and Research ("Board") which shall serve as an advisory board to the Health Care Commission.

(b) The Board ~~shall consist~~ is comprised of ~~10~~ the following members:

(1) Eight members, appointed by the Governor, as follows:

a. One ~~shall represent~~ member representing the ~~public, appointed by the Governor.~~ public.

b. One member representing a federally qualified health center.

c. ~~Three shall be~~ Three members ~~of~~ from the Delaware State Dental Society, ~~appointed by the Society,~~ appointed in consultation with the Delaware State Dental Society, including ~~One shall be~~ one appointed ~~by~~ in consultation with the State Board of Directors of Christiana Care Health Services. ~~One shall be a member of the Delaware Health Care Commission, appointed by the Health Care Commission.~~

d. One ~~shall be a~~ member ~~of~~ from the State Board of Dentistry and Dental Hygiene, ~~to be appointed by~~ appointed in consultation with the State Board of Dentistry and Dental Hygiene.

e. One ~~shall be a dental hygienist to be appointed by~~ dental hygienist, appointed in consultation with the Delaware Dental Hygienist Association.

f. One ~~shall represent~~ member from the Delaware Higher Education ~~Office to be appointed by the Delaware Higher Education Office, subject to the approval of the Secretary of Education~~ Office.

(2) The Chair of the Delaware Health Care Commission, or the Chair's designee.

(3) The Delaware State Dental ~~Director shall serve~~ Director, or the State Dental Director's designee, who serves as an ex officio member of the Board.

Section 8. There is created the Dental Care Access Task Force ("Task Force").

(1) The Task Force shall examine and recommend a course of action to address all of the following:

a. Dental care access, including for underserved populations and communities.

b. Dental licensure practices and requirements.

c. Dental provider type and scope of practice.

d. Dental provider recruitment and retention strategies.

e. Dental insurance networks and coverage, including for the uninsured and underinsured.

(2) The Task Force is comprised of the following members, or a designee selected by a member serving by virtue of position:

a. A State Senator from the Majority Caucus, appointed by the President Pro Tempore of the Senate. This member is a Co-Chair of the Task Force.

b. A State Representative from the Majority Caucus, appointed by the Speaker of the House of Representatives. This member is a Co-Chair of the Task Force.

c. A State Senator from the Minority Caucus, appointed by the President Pro Tempore of the Senate.

d. A State Representative from the Minority Caucus, appointed by the Speaker of the House of Representatives.

e. The Secretary of the Department of Health and Social Services.

f. The Director of the Division of Medicaid and Medical Assistance.

g. The Director of the Division of Professional Regulation.

h. The Dental Director of the Bureau of Oral Health and Dental Services.

i. The President of the Delaware Board of Dentistry and Dental Hygiene.

j. The President of the Delaware State Dental Society.

k. The Delaware State Dental Society's Chair for Sussex County Access to Dental Care.

l. The Delaware State Dental Society's Chair for Kent County Access to Dental Care.

m. The Delaware State Dental Society's Chair for New Castle County Access to Dental Care.

n. The Delaware State Dental Society's Chair for City of Wilmington Access to Dental Care.

o. The Delaware State Dental Society's Chair for Underserved Populations Access to Dental Care.

p. The President of the Delaware Society of Oral and Maxillofacial Surgeons.

q. The Dental Residency Director for Christiana Care.

r. The President of the Delaware Dental Hygienists' Association.

s. The Chair of the Delaware Institute for Dental Education & Research.

t. The Chair of the Delaware Health Care Commission.

u. The Executive Director of the State Council for Persons with Disabilities.

v. A representative of atTAck Addiction Delaware, appointed by the Governor.

w. The Executive Director of the Delaware Healthcare Association.

x. The Executive Director of the Metropolitan Wilmington Urban League.

y. A representative from a Delaware federally qualified health center, appointed by the Governor.

z. One member of the public, appointed by the Speaker of the House of Representatives.

aa. One member of the public, appointed by the President Pro Tempore of the Senate.

(3) A member serving by virtue of position who is granted the ability to designate another individual to attend a Task Force meeting must provide the designation in writing to the Chair. An individual attending a meeting for a member serving by virtue of position has the same duties and rights as the member serving by virtue of position.

(4) A quorum of the Task Force is a majority of the members of the Task Force.

(5) Official action by the Task Force, including making findings and recommendations, requires the approval of a majority of the members of the Task Force.

(6) The Task Force may adopt rules necessary for its operation.

(7) The co-chairs of the Task Force are responsible for guiding the administration of the Task Force by doing, at a minimum, all of the following:

a. Setting a date, time, and place for the initial organizational meeting.

b. Supervising the preparation and distribution of meeting notices, agendas, minutes, correspondence, and reports of the Task Force.

c. Sending to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Director of the Division of Research of Legislative Council, after the first meeting of the Task Force, a list of the members of the Task Force and the person who appointed them.

d. Providing meeting notices, agendas, and minutes to the Director of the Division of Research of Legislative Council.

e. Ensuring that the final report of the Task Force is submitted to the President Pro Tempore of the Senate and the Speaker of the House of Representatives, with copies to all members of the General Assembly; the Governor; the Director and the Librarian of the Division of Research of Legislative Council; and the Delaware Public Archives.

(8) The Task Force shall hold its first meeting no later than September 15, 2022.

(9) The General Assembly is responsible for providing reasonable and necessary support staff, including a legislative attorney, and materials for the Task Force to carry out its mission.

(10) The co-chairs of the Task Force shall compile a report containing a summary of the Task Force's work regarding the issues assigned to it under paragraph (1) of this Section, including any findings and recommendations related to those issues, and submit the report no later than February 1, 2023.

(11) This Section expires on the date the Task Force submits the report under paragraph (10) of this Section.

Section 9. Each federally qualified health center shall provide a report to the Secretary of the Department of Health and Social Services on the federally qualified health center's retention and recruitment outcomes 1 year after the effective date of Sections 1 through 7 of this Act.

Section 10. Sections 1 through 7 of this Act take effect 90 days after enactment.

Section 11. Sections 8 and 9 of this Act take effect on enactment.

SYNOPSIS

This Act increases opportunities for federally qualified health centers ("FQHC") and government-operated dental clinics to serve the indigent and other underserved communities with dental care and improves flexibility with updated provisional licensing processes for FQHC and government-operated dental clinic applicants.

This Act assists FQHCs and government-operated dental clinics in recruiting dentists to serve those most in need.

This Act adds FQHCs to the Delaware Institute for Dental Education and Research Board.

This Act creates the Dental Care Access Task Force ("Task Force") to examine and recommend a course of action to address all of the following:

(1) Dental care access, including for underserved populations and communities.

(2) Dental licensure practices and requirements.

(3) Dental provider type and scope of practice.

(4) Dental provider recruitment and retention strategies.

(5) Dental insurance networks and coverage, including for the uninsured and underinsured.

The Task Force must submit its report no later than February 1, 2023.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Author: Senator S. McBride