Bill as Introduced

HB 617-FN – AS AMENDED BY THE HOUSE

25mar03... 0839h

2003 SESSION

03-0154
10/01

HOUSE BILL ***617-FN***

AN ACT relative to the licensure of dentists and regulation by the board of dental examiners.

SPONSORS: Rep. Langley, Rock 88

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill makes various changes to the law governing the regulation of dentists, including providing for licensure by endorsement and clarifying references to the secretary-treasurer.

This bill is a request of the board of dental examiners.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to the licensure of dentists and regulation by the board of dental examiners.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Board Duties; Dental Hygiene Members. Amend RSA 317-A:4, I(b) to read as follows:

(b) [~~The dental hygiene members shall assist the board in matters pertaining to dental hygiene and may examine candidates for dental hygiene licensure.~~] The dental hygiene members shall not examine applicants for the clinical practice of dentistry;

2 Board Officers. Amend RSA 317-A:4, II to read as follows:

II. The board shall choose one of its members as its president and one of its members as [~~secretary-treasurer~~] ***vice-president***. Five members shall constitute a quorum. The board shall meet once a year and at such other times and places as it may deem proper. A true record of all their official acts shall be made and preserved by the ***board's executive*** secretary. The records shall be public and shall be open to inspection at all reasonable times, except for records compiled in connection with disciplinary proceedings, which are subject to RSA 317-A:18.

3 Report, Receipts; Reference to Secretary-Treasurer Changed. Amend RSA 317-A:5 to read as follows:

317-A:5 Report; Receipts. The board shall make a biennial report of its proceedings to the governor and council in October, and all fees and fines received by the board shall be paid monthly by the [~~secretary-treasurer~~] ***executive secretary*** to the state treasurer.

4 New Section; License by Endorsement. Amend RSA 317-A by inserting after section 7 the following new section:

317-A:7-a License by Endorsement. Licensure by endorsement may be considered by the board for each applicant who holds a current, unrestricted license and registration certificate to practice dentistry or dental hygiene and who submits to the board the required credentials if, for the 3 years immediately preceding the application, the applicant:

I. Has maintained an active dental practice or practiced dental hygiene in one or more states; or

II. Has been in dental specialty training; or

III. Has been in active military service as a dentist; or

IV. Has been in any combination of these.

5 License; Reference to Secretary-Treasurer Changed. Amend RSA 317-A:10 to read as follows:

317-A:10 License. All licenses issued by the board shall be signed by all the members thereof and attested by its president and [~~secretary-treasurer~~] ***vice-president***.

6 Rulemaking; License by Endorsement. Amend RSA 317-A:12, III to read as follows:

III. The qualifications of applicants in addition to those requirements set by statute, ***including experience requirements for application for license by endorsement***;

7 Professional Misconduct; Guidelines. Amend the introductory paragraph of RSA 317-A:17, II(g) to read as follows:

(g) Failure to follow the current guidelines of the American Dental Association, ***as adopted or amended by the board,*** published in:

8 Professional Misconduct; Code of Ethics. Amend RSA 317-A:17, II(j) to read as follows:

(j) Knowingly or willfully violating any provision of this chapter, any substantive rule or order of the dental board, [~~the code of ethics of the New Hampshire Dental Society or the American Dental Association, or~~] any federal, state or local controlled drug law or other federal, state, or local laws or regulations pertaining to the practice of dentistry, ***and the code of ethics of the American Dental Association as reviewed and approval in rules of the board.***

9 Certificate of Good Standing; Reference to Secretary-Treasurer. Amend RSA 317-A:25 to read as follows:

317-A:25 Certificate of Good Standing. Any one who is licensed to practice dentistry or dental hygiene in this state, and of good professional character, and known to the dental board as such, who desires to change residence to another state, territory or country, shall, upon application to the dental board, receive a special certificate over the signature of the president and [~~secretary-treasurer~~] ***vice-president*** of the board, which shall attest such facts, and give the date upon which such person was licensed.

10 List of Dentists; Reference to Secretary-Treasurer. Amend RSA 317-A:29 to read as follows:

317-A:29 List of Dentists and Dental Hygienists. Any manager, proprietor, partnership, association, or corporation specified in RSA 317-A:28 shall, within 10 days after demand made by the [~~secretary-treasurer~~] ***vice-president*** of the board by registered mail, furnish to the [~~secretary-treasurer~~] ***vice-president*** the names and addresses of all persons practicing dentistry or dental hygiene in their or its place of business or under their or its control, together with a sworn statement showing by what license or authority said persons are practicing.

11 Disposal of Fines; Reference to Secretary-Treasurer. Amend RSA 317-A:35 to read as follows:

317-A:35 Disposal of Fines. All fines imposed and collected under this chapter shall be paid by the court or justice to the [~~secretary-treasurer~~] ***executive secretary*** of the board.

12 Effective Date. This act shall take effect July 1, 2003.

LBAO
03-0154
Revised 1/30/03

HB 617 FISCAL NOTE

AN ACT relative to the licensure of dentists and regulation by the board of dental examiners.

FISCAL IMPACT:

The New Hampshire Board of Dental Examiners stated this bill will have no fiscal impact on state, county, and local revenue or expenditures.

Amendments

Senate Executive Departments and Administration
April 22, 2003
2003-1344s
10/01

Amendment to HB 617-FN

Amend the bill by replacing sections 7 and 8 with the following:

7 Professional Misconduct; Guidelines. Amend the introductory paragraph of RSA 317-A:17, II(g) to read as follows:

(g) Failure to follow the current guidelines of the American Dental Association, ***as adopted, in whole or in part, by the board, as*** published in:

8 Professional Misconduct; Code of Ethics. Amend RSA 317-A:17, II(j) to read as follows:

(j) Knowingly or willfully violating any provision of this chapter, any substantive rule or order of the dental board, [~~the code of ethics of the New Hampshire Dental Society or the American Dental Association, or~~] any federal, state or local controlled drug law or other federal, state, or local laws or regulations pertaining to the practice of dentistry, ***and the code of ethics of the American Dental Association as reviewed and approved, in whole or in part, by the board.***

Committee Minutes

Date: April 16, 2003
Time: 2:40 p.m.
Room: 102 LOB

The Senate Committee on Executive Departments and Administration held a hearing on the following:

HB 617	relative to the licensure of dentists and regulation by the board of dental examiners.

Members of Committee present: Senator Prescott
Senator Peterson

The Chair, Senator Russell Prescott, opened the hearing.

I'd like to open up the hearing for HB 617 at this time. I see we only have one person wishing to speak. This is relative to the licensure of dentists and regulation by the board of dental examiners. We have the prime sponsor or anyone from the House or Senate to introduce the bill?

Dr. Ray Jarvis, Board of Dental Examiners: Representative Jane Langely called me and she is very ill. She said she would try to get up here.

Senator Russell E. Prescott, D. 23: You are Dr. Ray Jarvis and Jim Bianco.

Jim Bianco, New Hampshire Dental Society: Mr. Chairman if we could, we'd like to come together so we could expedite the testimony. Would that be better?

Senator Russell E. Prescott, D. 23: That would be wonderful, thank you.

Dr. Jarvis: If I may, should I begin at this time?

Senator Russell E. Prescott, D. 23: Yes, please.

Dr. Jarvis: House Bill 617 was proposed by the Board of Dental Examiners. It deals with four topics. Two of them are an effort of the board to update the Dental Practice Act. A third was recommended by the Joint Legislative Rules. The fourth was recommended by the Attorney General's Office. I'll just go through them one, two, three, four.

The first one has to do with the dental hygiene member. There are two on the board, there's also a public member. There are six dentists. They all have the same functions. The only difference is, is that the dental hygienists do not clinically examine dentists. The way the Dental Practice Act reads now, it seems to the board that it's not appropriate to say, "dental hygiene members shall assist the board in matters pertaining to dental hygiene." Because they actually do what all of the other board members do. The board just wanted to update that.

The second topic is the position of Secretary/Treasurer. The board would like to remove that position and create the position of Vice President. Fifty years ago I was looking at the old minutes and things were a lot different. The minutes from a total of twenty years were in a little 5 x 7 notebook. There were three board members. There was a board President, a Secretary/Treasurer, whom I think did what I'm doing which, is as the boards Executive Secretary. I'm the chief administrative person. Then they had a third person who didn't have an office. The board is nine people and the Executive Secretary, me, I do most of what the Secretary/Treasurer did. So the board would like to remove that position and create a position of Vice President so it's clear who has the responsibility when the President of the board is in another part of the country doing clinical examinations which they do on a regular basis.

So those are the two.... You'll find that throughout the bill where you'll find Secretary/Treasurer is crossed out. In most places Executive Secretary is substituted and in a couple of places Vice President where it makes sense.

The third topic has to do with licensure by endorsement. This is another way of saying licensure by credentials. The board in New Hampshire has been progressive. It has been years ahead of its time. It has for many years licensed by endorsement or licensed by credentials. Now just about all of the states do. What this is saying, if you have a dentist in Maine who has been practicing for 10 years and doing very well. He hasn't had complaints or sanctions, then that person when they present their credentials should not have to go through licensure by examination where they have to go down to Boston and take a clinical exam. The board feels that if a dentist has been practicing in the military or practicing in another state or they have just finished a specialty program, they have proven many, many times that they can do treatments for which they have been licensed in other places. The board has licensed by credentials. The problem is when I go to the Joint Legislative Rules committee they say "Dr. Jarvis, where does it say license by endorsement in the Dental Practice Act." You can easily infer that from RSA 317-A: 8 or A: 9. That's not quite good enough. They said we want you to put

it into the Dental Practice Act. They said where to put it. It's in the two places, which are in this bill, and it is their language. It makes sense to have this major method of license mentioned, specified in the Dental Practice Act and not just inferred.

The final topic, the fourth topic was recommended by the Attorney General's office. For many years dentists in New Hampshire have been told that they are to follow the guidelines of the American Dental Association as far as code of ethics. So you have the American Dental Association in Chicago creating a code of ethics which the dentists here are to follow. The Attorney General's office says that is not acceptable. The state is the body, which is going to make law. It will be the state's code of ethics. So working with the New Hampshire Dental Society the board came up with language. What it's basically saying is that the board will review and approve the American Dental Association Code of Ethics in whole or in part. That way the final authority there is coming from the state.

That said, on the fourth topic there was an amendment, which was accepted by the house subcommittee. It did not get into the bill as it is published now. Attorney Bianco representing the New Hampshire Dental Society and I representing the Board of Dental Examiners would like to recommend or bring your attention to what was inadvertently left out. Page 2, line 6. It says, "as adopted." We would like to put a comma after the word adopted and then say, "in whole or in part, published in." Then in line 11 after the word Dental Association as, take out the word adopted, say "as reviewed and approved in whole or in part by the board."

I'll be happy to entertain any questions that you have.

Jim Bianco, representing the New Hampshire Dental Society: Maybe I could explain. I'm Jim Bianco, representing the New Hampshire Dental Society. What we had discussions with Wynn Arnold who testified on the previous bill about the issues that Dr. Jarvis raised which is how do you amend the ADA conflict, ethics, regulations that they promulgate. You can't. So the language here is that the State of New Hampshire will adopt it in whole or in part and dentists in New Hampshire will follow it. The language before was a little confusing. It's clear that they don't want to amend what the ADA puts out. So all this language does is make it a little clearer what the process is that they're going to follow in respect to the ADA guidelines. I think that all of us have met on this and decided that this language is appropriate so I would say that it's an agreed upon amendment at this point. Dr. Jarvis is correct. We talked to the subcommittee about it. I thought it was going to be in. I think there was some consensus to that but somehow it was inadvertently omitted at that time.

Senator Russell E. Prescott, D. 23: Those two amendments you think were just oversight of the house.

Mr. Bianco: Yes sir, we do.

Senator Russell E. Prescott, D. 23: Any further testimony? Any other questions of the committee? Thank you very much.

Hearing closed at 2:50

Respectfully submitted

Pamela Manocchi
April 23, 2003

Attachments

NEW HAMPSHIRE BOARD OF DENTAL EXAMINERS

2 Industrial Park Drive, Concord, NH 03301-8520
Tel. (603) 271-4561
In State Toll Free Telephone Number 1-800-852-3345, Ext. 4561
FAX #: (603) 271-6702
www.state.nh.us/dental
TDD Access: Relay NH 1-800-735-2964
Email: dentalboard@nhsa.state.nh.us

Raymond J. Jarvis, DMD
Executive Secretary

April 16, 2003

The Board of Dental Examiners' Position

House Bill 617

Pursuant to RSA 317-A (The Dental Practice Act) the Board of Dental Examiners is responsible for regulating the practice of dentistry in a manner that protects the public. To that end, the Board asked representative Jane Langley to sponsor HB 617 which proposes changes in RSA 317-A. The reason for the proposed changes are as follows:

RSA 317-A:4 I (b)

(b) [The dental hygiene members shall assist the board in matters pertaining to dental hygiene and may examine candidates for dental hygiene licensure.]The dental hygiene members shall not examine applicants for the clinical practice of dentistry;

Rationale – Dental hygienists on the Board have the same responsibilities as other Board members except they are not qualified to examine applicants in the clinical practice of dentistry.

RSA 317-A:4 II

II. The board shall choose one of its members as its president and one of its members as vice president [secretary-treasurer]. Five members shall constitute a quorum. The board shall meet once a year and at such other times and places as it may deem proper. A true record of all their official acts shall be made and preserved by the board's executive secretary. The records shall be public and shall be open to inspection at all reasonable times, except for records compiled in connection with disciplinary proceedings, which are subject to RSA 317-A:18.

Rationale – 1. A vice president is needed to assume the duties of the president in his/her absence. 2. The Board's executive secretary performs "secretary-treasurer" duties. The position of secretary-treasurer was established many years ago when the Board had only 3 members and no executive secretary.

RSA 317-A:5

Report; Receipts. The board shall make a biennial report of its proceedings to the governor and council in October, and all fees and fines received by the board shall be paid monthly by the executive secretary [-treasurer] to the state treasurer.

Rationale – The Board's executive secretary has this responsibility.

RSA 317-A:7 - a

(a) Licensure by endorsement certification may be considered by the board for each applicant who holds a current, unrestricted license and registration certificate to practice dentistry or dental hygiene and who submits to the board the required credentials if, for the 3 years immediately preceding the application, the applicant:

(1) Has maintained an active dental practice or practiced dental hygiene in one or more states; or

(2) Has been in dental specialty training; or

(3) Has been in active military dental service; or

(4) Has been in any combination thereof.

Rationale – Qualified dentists and dental hygienists have been licensed by endorsement in New Hampshire for many years. Authority has been inferred from RSA 317-A:8 and A:9. The above language is presently in the Board's administrative rules Den 301.01(i) and Den 301.02(i). The Joint Legislative Rules Committee has stated that this authority should be addressed in the Dental Practice Act, specifically in RSA 317-A:7-a and RSA 317-A:12 III.

RSA 317-A:10

License. All licenses issued by the said board shall be signed by all members thereof and attested by its president and vice president [secretary-treasurer].

Rationale – The Board believes this is neither a secretary-treasurer nor executive secretary function.

RSA 317-A:12 III Rulemaking Authority. The Board shall adopt rules, pursuant to RSA 541-A, relative to:

III. The qualifications of applicants in addition to those requirements set by statute, including experience requirements for application for licensure by endorsement.

Rationale – Same rational as RSA 317-A:7-a above.

RSA 317-A:17 II (g)

II. ...Misconduct sufficient to support adverse action shall include:

(g) Failure to follow the current guidelines of the American Dental Association, as adopted, in whole or in part, by the board, as published in:

(1) Infection Control Recommendations; and
(2) Recommendations in Radiographic Practices.

Rationale – On the advice of the Office of the Attorney General, this language has been added as a precaution to prevent a non-governmental agency creating New Hampshire law.

RSA 317-A:17 II (j)

(j) Knowingly or willfully violating any provision of this chapter, any substantive rule or order of the dental board, [the code of ethics of the New Hampshire Dental Society or the American Dental Association, or] any federal, state of local controlled drug law or other federal, state, or local laws or regulations pertaining to the practice of dentistry, and the code of ethics of the American Dental Association as adopted, in whole or in part, by the board.

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RSA 317-A:25

Certificate of Good Standing. Any one who is licensed to practice dentistry or dental hygiene in this state, and of good professional character, and known to the dental board as such, who desires to change his residence to another state, territory or country, shall, upon application to the dental board, receive a special certificate over the signature of the president and vice president [secretary-treasurer] of said board, which shall attest such facts, and give the date upon which such person was licensed.

Rationale – The signatures of the president and vice president are appropriate for this testimony.

RSA 317-A:29

List of Dentists and Dental Hygienists. Any manager, proprietor, partnership, association, or corporation specified in RSA 317-A:28 shall, within ten days after demand made by the executive secretary [secretary-treasurer] of the board by registered mail, furnish to the executive secretary [secretary-treasurer] the names and addresses of all persons practicing dentistry or dental hygiene in their or its place of business or under their control, together with a sworn statement showing by what license or authority said persons are practicing.

Rationale – The Board's executive secretary performs this task.

RSA 317-A:35

Disposal of Fines. All fines imposed and collected under this chapter shall be paid by the court or justice to the executive secretary [-treasurer] of the board.

Rationale – Fines are made payable to "Treasurer, State of New Hampshire" and sent to the Board's administrative office. It is the executive secretary's responsibility to ensure they are deposited to the state in an appropriate bank.

HB 617-FN

Underline = New Language
[ ] = Deleted Language

Amend Section 7 of the bill to read as follows

7 Professional Misconduct; Guidelines. Amend the introductory paragraph of RSA 317-A:17, II(g) to read as follows:

(g) Failure to follow the current guidelines of the American Dental Association, ***as adopted [or amended] in whole or in part by the board, as*** published in:

Amend Section 8 of the bill to read as follows

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Speakers

SENATE Executive Departments & Administration

Date 4/16/03 Time 2:15 p.m. Public Hearing on

Bill # HB 617-FN relative to the licensure of dentists and regulation by the board of dental examiners.

(Please print) ***Please check box(es) at left that apply.***

SPEAKING?	FAVOR	OPPOSED	NAME	REPRESENTING
☑	☑	☐	Dr. Ray Jarvis	Board of Dental Examiners
☑	☑	☐	Sr. Jim Fiduccia	NH Dental Society
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Testimony

NEW HAMPSHIRE BOARD OF DENTAL EXAMINERS

2 Industrial Park Drive, Concord, NH 03301-8520
Tel. (603) 271-4561
In State Toll Free Telephone Number 1-800-852-3345, Ext. 4561
FAX #: (603) 271-6702
www.state.nh.us/dental
TDD Access: Relay NH 1-800-735-2964
Email: dentalboard@nhsa.state.nh.us

Raymond J. Jarvis, DMD
Executive Secretary

April 16, 2003

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Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: April 16, 2003

THE COMMITTEE ON Executive Departments and Administration

to which was referred House Bill 617-FN

AN ACT relative to the licensure of dentists and regulation by the board of dental examiners.

VOTE: 2-0

2003-1344s

Having considered the same, report the same with the following amendment and recommend that the bill: **AS AMENDED OUGHT TO PASS.**

Senator Andrew R. Peterson
For the Committee

HB617 Docket

Next|Prev|Results List|Main|Bill Status

Bill Title: relative to the licensure of dentists and regulation by the board of dental examiners.

Date	Body	Description
1/9/2003	H	Introduced and ref to Exec Depts & Admin; HJ 12, p202
1/29/2003	H	Hearing Mar 5 9:30 RM100, St House
3/19/2003	H	Maj Report OTP/AM for Mar 25 (Vote 18-0;CC)
3/19/2003	H	Prop Comm Am{0839}; HC26, p713
3/25/2003	H	Passed with Am; HJ 29-pt 1, p869 + pt 2, p966
4/3/2003	S	Introduced and Ref. to Executive Departments & Administration; SJ 11, Pg.271
4/11/2003	S	Hearing; April 16, 2003, Room 102, LOB, 2:15 p.m.; SC18
4/28/2003	S	Committee Report; Ought to Pass With Amendment{1344}, [05/08/03]; SC21, Pg.16
5/8/2003	S	Committee Amendment{1344}, AA, VV; SJ 15, Pg.354
5/8/2003	S	Ought to Pass With Amendment{1344}, MA, VV; Refer to Finance [Rule 26]; SJ 15, Pg.354
5/15/2003	S	Committee Report; Ought to Pass , [05/22/03]; SC23
5/22/2003	S	Ought to Pass, MA, VV; OT3rdg; SJ 17, Pg.449
5/22/2003	S	Passed by 3rd Reading Resolution; SJ 17, Pg.479-480
5/29/2003	H	House Conc with Sen Am, Rep O'Neil MA VV; HJ 45, p1439
6/5/2003	S	Enrolled;
6/5/2003	H	Enrolled;
6/17/2003	H	Signed by the Governor on 6/17/2003 Eff: 7/1/2003 Chap: 0149

Next|Prev|Results List|Main|Bill Status

Docket Abbreviations