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H.B. 203
133rd General Assembly

Occupational Regulation Report

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Primary Sponsor: Rep. Lipps

Impacted Profession: Mobile Dentistry

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LSC is required by law to issue a report for each introduced bill that substantially changes or enacts an occupational regulation. The report must: (1) explain the bill's regulatory framework in the context of Ohio's statutory policy of using the least restrictive regulation necessary to protect consumers, (2) compare the regulatory schemes governing the same occupation in other states, and (3) examine the bill's potential impact on employment, consumer choice, market competition, and cost to government.¹

SUMMARY OF PROPOSED REGULATIONS

The bill specifies that only a licensed dentist is permitted to operate a mobile dental facility² and requires such a dentist to include information about the facility when registering with the State Dental Board.³ If the dentist stops operating the mobile dental facility or has a change of address or telephone number, the bill requires the dentist to notify the Board and all treatment venues within 14 days.⁴ Under continuing law, all licensed dentists must notify the Board within 10 days of any change in address or employment.⁵

The bill also requires dentists operating a mobile dental facility to provide patients with contact information, a list of services provided, recommendations for further dental services, and instructions regarding how the patient can access dental records.⁶ Finally, the bill

¹ R.C. 103.26, not in the bill.

² Continuing law prohibits the practice of dentistry by unlicensed persons, so it appears that this change merely clarifies an existing requirement. See, R.C. 4715.09, not in the bill.

³ R.C. 4715.70(D) and 4715.71.

⁴ R.C. 4715.14 and 4715.72.

⁵ R.C. 4715.14(D), not in the bill.

⁶ R.C. 4715.71.

authorizes the State Dental Board to initiate disciplinary action against a dentist who fails to comply with any of the aforementioned requirements.⁷

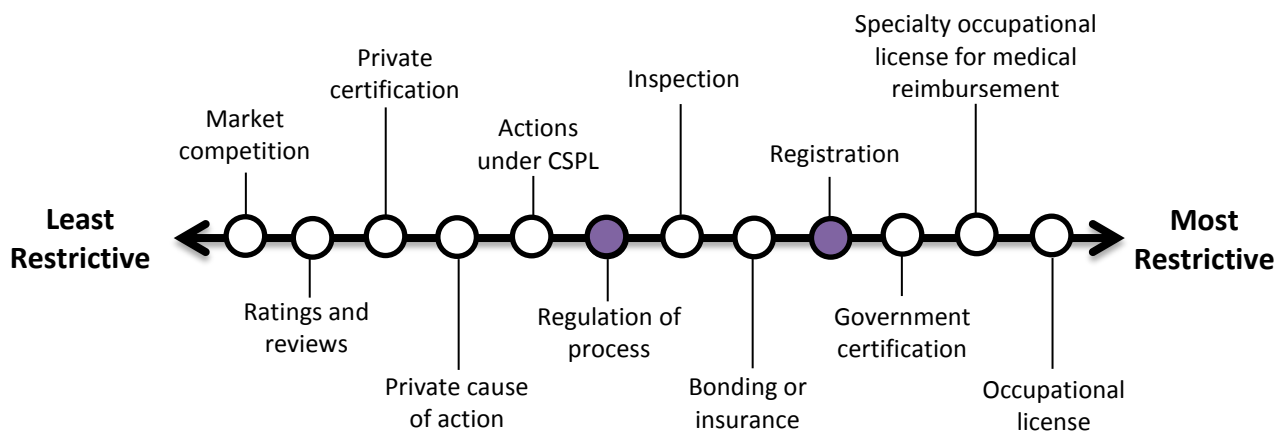
The bill defines a “mobile dental facility” as (1) a self-contained, intact facility in which dentistry or dental hygiene services are practiced that may be transported from one location to another or (2) a site used on a temporary basis to provide dental services using portable equipment.⁸

Least Restrictive Regulation Comparison

Ohio’s general regulatory policy

The general policy of the state is reliance on market competition and private remedies to protect the interests of consumers in commercial transactions involving the sale of goods or services. For circumstances in which the General Assembly determines that additional safeguards are necessary to protect consumers from “present, significant, and substantiated harms that threaten health, safety, or welfare[,]” the state’s expressed intent is to enact the “least restrictive regulation that will adequately protect consumers from such harms.”⁹

The degree of “restrictiveness” of an occupational regulation is prescribed by statute. The following graphic identifies each type of occupational regulation expressly mentioned in the state’s policy by least to most restrictive¹⁰:



⁷ R.C. 4715.30.

⁸ R.C. 4715.70(C).

⁹ R.C. 4798.02, not in the bill.

¹⁰ CSPL refers to the Consumer Sales Practices Law found in R.C. Chapter 1345, not in the bill.

Proposed regulation

The bill modifies the required content for the biannual registration filed by a licensed dentist who operates a mobile dental facility and requires such dentists to comply with additional patient notification procedures. The state's policy on occupational regulations provides that registration is appropriate to protect consumers against potential damages by transient providers. The policy does not provide guidance as to when a regulation of process - such as the bill's patient notification procedures - is appropriate.

Necessity

In the formal announcement of the bill, Representative Lipps indicated that patient records often do not transfer to stationary dental offices from mobile dental facilities. This lack of communication sometimes results in repeat procedures such as x-rays and initial evaluations. He stated that the bill will "work to make sure that Ohioans have access to the oral health care they need without unnecessary inconveniences and out-of-pocket expenses that have burdened patients in the past."¹¹ In his sponsor testimony, Representative Lipps explained that 14 other states regulate mobile dental facilities and that, by doing the same, Ohio would be able to effectively track those facilities and provide a means for records transfer between all dental care providers.¹²

Proponent testimony indicates that the information collected under the bill will allow for the creation of a database of mobile dental facilities operating in Ohio. This database would help protect consumers and provide a way for communities and schools to search for facilities that could come to their area and provide services.¹³

Restrictiveness

Ohio law permits patient access to all medical records kept by a health care practitioner, including a dentist or dental hygienist.¹⁴ However, a request to obtain a medical record must be made in writing to the health care provider. Without the contact information of a mobile dental facility or a database to search for facilities that may have provided prior care, a patient might be unable to access records for purposes of future dental procedures. This obstacle is a product of the transient nature of mobile dental facilities and does not seem to be an issue for stationary dental offices, which are easier to track down.

¹¹ Ohio House of Representatives, Rep. Lipps Announces Introduction of Mobile Dental Facilities Bill, available at: <http://www.ohiohouse.gov/p-scott-lipps/press/rep-lipps-announces-introduction-of-mobile-dental-facilities-bill>.

¹² Representative Scott Lipps, House Bill 203 Sponsor Testimony, available at: <https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA133-HB-203>.

¹³ See e.g., Marla Morse, House Bill 203 Proponent Testimony, Virginia Black, House Bill 203 Proponent Testimony, both available to download at: <https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA133-HB-203>.

¹⁴ R.C. 3701.74 (B), not in the bill.

The bill's registration and notification requirements address the inherent challenges for patients seeking medical records from mobile dental facilities without restricting the right of dentists to practice in Ohio or in other states. The bill's framework is generally less restrictive than other states that regulate mobile dental facilities. For example, Michigan requires a separate application and fee for the operation of a mobile dental facility and prescribes more detailed timelines and requirements for the release of patient information.

Other regulatory policies

The Ohio Department of Health keeps a running list of "safety net dental clinics." These mobile or stationary clinics generally serve people who do not have a regular dentist, adequate health insurance, or are unable to pay for care. The clinics tend to focus on individuals who have unmet oral health needs such as the elderly, racial and ethnic minorities, children, and those living in remote geographical areas. They are often operated by public agencies and frequently offer reduced payment plans, sliding fees, and case-by-case fee-reductions.¹⁵ The bill's provisions would give the State Dental Board adequate information to create a similar database for mobile dental facilities operated by private dentists. The bill does not require mobile dental facilities to offer reduced fees or to serve any specific segment of the population.

STATE BY STATE COMPARISON

Surrounding states

Of the five surrounding states, Michigan, Indiana, and West Virginia have mobile dental facility requirements. The regulations tend to be more restrictive than those proposed by the bill. See **APPENDIX** for a more detailed comparison.

IMPACT STATEMENT

Opportunities for employment

The bill is unlikely to significantly impact opportunities for employment. There will be some additional costs for dentists operating mobile dental facilities to provide the required notifications, but these costs are not expected to be high enough to cause a barrier to employment.

Market competition

The bill is unlikely to significantly impact market competition. The requirements outlined in the bill do not impose any significant increase in costs on providers and are unlikely to result in providers leaving the market in any significant numbers.

¹⁵ Ohio Department of Health, Dental Clinics, available at: <https://odh.ohio.gov/wps/portal/gov/odh/know-our-programs/oral-health-program/Ohio-Dental-Clinics/>.

Consumer choices and costs

The bill is unlikely to significantly impact consumer choice. The provisions outlined do not affect the ability of consumers to seek out treatment from a mobile dental facility.

Cost to government

For the costs of the bill to government, please see the LBO fiscal note.¹⁶

¹⁶ LBO fiscal note available at: <https://www.legislature.ohio.gov/download?key=12014&format=pdf>.

APPENDIX

State	Additional Fee	Registration	Information provided to patient	Licensing Board notification procedures	Other notable provisions
Ohio ¹⁷	None	Indicate operation of a mobile dental facility on biannual dental license renewal forms.	The name of each individual who arranged for or provided dental services, telephone number in case of emergency, a list of services provided, recommendations for further dental services, notice that facility must provide access to patients records, instructions for requesting copy of records.	Notify Board and all treatment venues within 14 days of any change of address or telephone number or if the operator ceases to operate the facility.	N/A
Indiana ¹⁸	\$200	Separate application that includes evidence of compliance and proof of radiographic equipment inspection.	Contact information, name of dentist and other staff, description of treatment rendered (including billed service codes and fees), referral information or plan for follow-up care.	Maintain a mailing address and telephone number of record and notify the Board of changes within 30 days.	Documents must contain the facility's address and telephone number of record. Records must be kept at that address.

¹⁷ Proposed by the bill.

¹⁸ 828 Indiana Administrative Code, Article 4, and Indiana Professional Licensing Agency, *Mobile Dental Facility Information and Instructions*, available at: https://www.in.gov/pla/files/MOBILE_DENTAL_FACILITY_INFORMATION_and_INSTRUCTIONS.pdf.

State	Additional Fee	Registration	Information provided to patient	Licensing Board notification procedures	Other notable provisions
					<p>The driver must hold a license appropriate for operation of the vehicle.</p> <p>Signed consent for minor care.</p> <p>A facility that does not follow up with necessary additional treatment is considered to have abandoned the patient.</p> <p>Certain physical requirements (ramp, chair, etc.).</p>
Kentucky	N/A	N/A	N/A	N/A	N/A

State	Additional Fee	Registration	Information provided to patient	Licensing Board notification procedures	Other notable provisions
Michigan ¹⁹	\$270	Separate application every three years including fee, written plans and procedures specific to the mobile dental facility, designation of service type, counties where service is provided, list of all individuals who will provide care (including license number), proof of insurance, and infection control checklist.	Application narrative indicating how the patient will be referred for emergency dental services, counseled to seek an annual exam, and a follow-up mechanism to determine whether the patient received services following referral. Facility must notify patient and make records available for 180 days after ceasing operations and then transfer those records to a different dentist.	Changes in the facility, memorandum of agreement, address, and telephone number. Cessation of operations, including written notice to treatment venues and availability of patient records. Provide documentation that reasonable attempts were made to contact patient concerning record storage and retrieval.	Failure to comply is cause for disciplinary action by the licensing department.
Pennsylvania	N/A	N/A	N/A	N/A	N/A

¹⁹ Michigan Public Health Code 368-1978-17-216, Section 333.216601 et seq, available at: [http://www.legislature.mi.gov/\(S\(4bvewfkmwmcqjd131gbkqui\)\)/mileg.aspx?page=getObject&objectName=mcl-368-1978-17-216](http://www.legislature.mi.gov/(S(4bvewfkmwmcqjd131gbkqui))/mileg.aspx?page=getObject&objectName=mcl-368-1978-17-216).

State	Additional Fee	Registration	Information provided to patient	Licensing Board notification procedures	Other notable provisions
West Virginia ²⁰	\$1,500 (private) or \$250 (nonprofit). Reduced rate for “portable dental units” (i.e., equipment set up in a home, school, or other remote location) of \$500 (private) or \$50 (nonprofit).	Annual application that includes full name, address of record, telephone number of each person who will operate or use the unit, proof of insurance, physical address of record for the unit, copy of emergency follow-up agreement, statement of access to communication facilities to contact assistance in an emergency, statement of compliance with federal and state laws regarding radiographic equipment etc., possession of all required licenses or permits, and infectious control procedures.	Name of operator, permanent office address, telephone number, services, and copy of informed consent. Information sheet containing name of licensee who provided service, telephone number or other emergency contact number where calls will be returned within 24 hours, treatment rendered with billing codes, recommended treatment, referrals, and consent forms.	Notify Board within 30 days of change of address or personnel. Prominently display all licenses and comply with record keeping requirements.	Dental board vested with authority to regulate mobile dental facilities. ²¹ Must have a dental treatment chair, light, portable delivery system, and other facility-related requirements. Provide ready access to sterilization, water, and toilets.

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²⁰ W. Va. Legislative Rule Title 5 Series 14, available at: <https://wvbodprod.glsuite.us/GLSuiteWeb/Clients/WVBOD/StaticFiles/LawsAndRules.aspx>, and West Virginia Board of Dentistry, Mobile Dental Facility or Portable Dental Unit Application, available at: <https://wvbodprod.glsuite.us/GLSuiteWeb/Clients/WVBOD/StaticFiles/pdf/Applications/MobileAndPortableApplication.pdf>.

²¹ W. Va. Code 30-4-6.