

Testimony of Guy Shampaine, DDS on Senate Bill 40

Chairman Cutrona, Vice Chair Gross, Ranking Member Somani and all members of the House Health Provider Services Committee, thank you for allowing me the opportunity to explain my concerns with the current form of Senate Bill 40.

As background, I am an oral and maxillofacial surgeon. I served two terms on my dental board and was the president and interim executive director of the dental board at the request of the legislature twice. I was Chair of the Joint Commission on Dental Examinations and have been involved with dental licensure test development and testing for over 30 years. I have also been active with the American Association of Dental Boards (AADB) and the development of all of the Dental Board Guideline documents and was the principal editor of two of them.

My concerns with SB 40 are the public protection shortcomings of the compact in its current form, which are markedly different than the protections included in the medical and nursing compacts that Ohio has already adopted.

Let me start with the most alarming aspect of this bill. Section 4715.30 of the Ohio Code states that a dentist or dental hygienist may be disciplined for “(4) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed,” as well as a list of other violations including drug diversion. This language mirrors many states’ laws. However, a few states that have adopted the compact, including Washington State, have laws prohibiting their dental boards from considering criminal history that was not directly in the course of the practice of dentistry. In those states, dentists with criminal records for assault or sex offenses can be and are issued licenses. That is, of course, not the law in Ohio.

By contrast, the medical and nursing compacts require that licensees have no criminal or disciplinary history in order to participate under those compacts. Under the medical and nursing compacts, physicians and nurses with criminal records must apply through the conventional licensure methods so they can be reviewed. As written, SB 40 would not allow Ohio, as a remote compact state, to review the criminal or disciplinary record of any dentist coming into Ohio to practice under this compact. It would thus allow a person who was otherwise unqualified to hold a license in Ohio.

Next, dentistry is a uniquely surgical part of healthcare. Excellent hand-eye coordination is necessary in order to perform almost all dental procedures. The current compact does not require a psychomotor hand skills examination. Moreover, unlike the medical and nursing compacts—which require one, uniform national independent licensing examination—this compact allows for there to be no independent third-party examination at all. For example, Wisconsin—which has adopted the compact—now awards a license based solely on graduation from Marquette Dental School. Among other problems with that approach, it places graduates from Ohio’s dental schools at a disadvantage, since the Marquette graduates do not need to pass a rigorous hand skills examination in order to be licensed.

Similarly, the compact does not address the fact that dentists are permitted to administer sedation and write prescriptions for controlled substances. Some states regulate those actions differently, and in some instances, less rigorously than Ohio does. This compact would allow dentists with fewer qualifications to administer sedation and prescribe drugs within Ohio.

In addition, this compact does not require a state of primary residence or home state for the dentist or dental hygienist, unlike the medical and nursing compacts. As a result, the primary licensing state can be a state the dentist or dental hygienist has never been to or practiced in. This becomes an important issue in regulation. The dentist or dental hygienist may practice in a participating state under a compact privilege. They do not get a license, nor do they need one from the compact state in which they are practicing. Although a compact state can remove the compact privilege, they cannot discipline the license, because they did not issue one. According to the compact, only the licensing state can impose discipline on the license. But since the violation was not in the state that issued the license, most states do not have authority to sanction a license for an action that was done outside of their state.

Finally, continuing education requirements cannot be enforced by a compact state. The only requirements for continuing education that have to be fulfilled are the continuing education requirements in the licensing state. Ohio requires 30 hours of continuing education biennially, but some states require as few as eight. Continuing education requirements are developed in each state based on the issues that they identify in their state and their populations. It would be quite possible that someone practicing in Ohio under a compact privilege has taken far fewer continuing education credits than the rest of Ohio's practitioners.

In summary, the medical and nursing compact were developed to allow free movement of practitioners who were otherwise qualified for a license in each state. Those compacts took the highest common standards across all states, in order to assure each participating state that every practitioner has met the same uniform set of requirements and standards prior to practice. This was done for the protection of the public and their patients.

This current compact has no uniform licensing requirements, permits dentists to have criminal convictions, disciplinary backgrounds, and DEA actions against their license. The philosophy of the medical and nursing compacts was to provide portability with the same public protection principles currently in place in those states. Unfortunately, SB 40 does not include those safeguards. This compact can serve as a back door to practice in Ohio for individuals who otherwise are not qualified to practice in Ohio. It would currently offer advantages to graduates of Marquette University dental school that Ohio State University and Case Western dental school students do not have.

Amendments to the bill could add these public protection safeguards and still provide portability of a license. Thank you for the opportunity to testify.