



# District of Columbia

## DENTAL SOCIETY

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June XX, 2024 – Target date to send is June 10

The Honorable Christina Henderson  
Chair, Committee on Health  
Council of the District of Columbia  
1350 Pennsylvania Avenue, Suite 402, NW  
Washington, DC 20004

Re: Opposition to Dental Specialties Licensure and Scope of Practice Amendment Act of 2023 (B25-0632)

Dear Chairperson Henderson,

We are writing behalf of the more than 400 member dentists and the nearly 200 specialist dentists practicing in the District to oppose the Dental Specialties Licensure and Scope of Practice Amendment Act of 2023 (“the Act”). Ultimately, we are writing on behalf of the public, whose health and well-being we support on a daily basis by providing dental care, alleviating pain, and performing a range of procedures that can save lives, including the prevention of medical complications resulting from untreated oral disease conditions<sup>1</sup>, the diagnosis and surgical removal of oral cancer as well as surgical reconstruction, and the provision of alternative treatments for those who cannot tolerate CPAP for the treatment of sleep apnea.

**The Act would have an immediate and enduring adverse impact on the health and well-being of DC residents** by triggering a mass exodus of approximately half of the specialist dentists (“specialists”) currently practicing in DC and by preventing early career specialists from practicing in DC upon completion of a specialist residency program.

### **Only Half of All Specialists Would Qualify for a DC License**

The Act would require all specialists to hold a current certification from a recognized dental specialty certifying board (new Sec. 508c.2). The percentage of specialists who are board certified varies by specialty.<sup>2</sup> **Because of the board certification requirement, we estimate that half all specialist dentists**

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<sup>1</sup> Specialist dentists treat the most serious and advanced oral health conditions. The tragic deaths of Deamonte Driver, Kyle Willis, and Vadim Anatoliyevich Kondratyuk highlight the serious consequences that can result from neglected oral health.

“Toothache Leads to Boy’s Death,” ABC News, March 5, 2007,

<https://abcnews.go.com/Health/Dental/story?id=2925584>

“Man Dies From Toothache, Couldn’t Afford Meds,” ABC News, September 2, 2011,

<https://abcnews.go.com/Health/insurance-24-year-dies-toothache/story?id=14438171>

“Tooth infection leads to young dad’s death, family says,” CBS News, February 1, 2017,

<https://www.cbsnews.com/news/tooth-infection-leads-to-young-dads-death-family-claims/>

<sup>2</sup> The percentage of specialist dentists practicing in each specialty that are board certified varies widely. For example, the organization that administers the board certifying exam for oral and maxillofacial surgeons (OMS), the

**overall who practice in the District would not be eligible to obtain a specialist license to continue practicing in DC, including a large number of specialists who have served the Washington community for decades.** As a result, patients who require specialized care, often to treat the most severe oral health conditions, would be forced to wait longer to receive treatment and may need to travel outside the District to receive that care. In addition to worsening oral health conditions, longer wait times also can have an impact on patients with health conditions that are not specifically related to oral health. For example, those who are preparing to undergo certain surgical procedures may require treatment and ultimately clearance from a specialist. Longer wait times could delay surgery and affect the prognosis for the patient.

### **Specialists Reduce Emergency Room Visits**

All dentists provide both preventive care as well as remedial treatments for oral health conditions that emergency rooms are ill-equipped or unable to treat, including even the most basic oral health problems such as caries/cavities. Specialist dentists treat more complex oral health conditions that can cause significant pain and serious health complications if not treated, often within a short timeframe. For those living with chronic and systemic health conditions such as diabetes, HIV, and lupus, the impact of not receiving swift treatment may be greater, creating a stronger motivation for the person to seek care from an emergency room if they are unable to secure an appointment with a specialist dentist. Because emergency rooms lack the specialized equipment and staff with expertise to treat many dental conditions, patients are likely to be referred to a specialist dentist.

### **Many Specialists Provide Primary or Regular Dental Care**

For some DC residents, specialist dentists are the primary or sole provider of oral health care. For example, some general dentists do not treat minors, thereby increasing demand for pediatric dentists. In addition, for children as well as adolescents with special needs, a pediatric dentist may be the most appropriate provider of oral care. Patients with missing or deficient teeth may need the care of a prosthodontist to fabricate custom appliances such as bridges and dentures (full or partial) or otherwise support a full mouth rehabilitation. Patients living with a chronic or systemic disease such as diabetes, HIV, or lupus may need regular visits to a periodontist to monitor the health of tissue within the mouth, support healthy gums, and prevent bone loss.

### **Specialists Complete Six Plus Years of Training Before Practicing**

It is important to understand the numerous years of training specialist dentists complete before they are able to practice in their specialty. Dentists train for four years in a post-graduate program to earn their doctor of dental surgery (DDS) or doctor of medicine in dentistry (DMD) degree.

Dentist who choose to specialize complete an additional 2-6 years of post-doctoral training in a residency program in their chosen specialty. Upon completion of that accredited residency program, they are qualified to practice in their specialty and are eligible to sit for a board certification exam.

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American Board of Oral and Maxillofacial Surgeons, estimates that 75% of all OMS are board certified whereas according to the American Association of Endodontics, 24% of endodontists are board certified. A compilation of estimates from organizations representing specialist dentists determined that approximately half of all specialists have achieved or maintain board certification.

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The decision whether to seek board certification after a residency program is a personal choice that each specialist must make for themselves based upon their financial circumstances, ability to complete additional training, and other factors. Some specialists, including those who have practiced in the District for decades, opted to bypass board certification so they could focus on providing care to the public. In addition, some specialists may have passed the board certifying exam in the past, but have chosen not to pay regular fees to the certifying body to maintain their certification. For these and other reasons, only about half of all specialist dentists have achieved and maintained board certification. As a result, **about half of all specialist dentists would not be eligible to obtain a specialist license under the Act and would be forced to relocate their practice to Maryland or Virginia.**

#### **The Act Would Impede Early Career Specialists and the Generational Transition**

Pursuing board certification typically requires an additional 1-2 years of study and research following a specialist residency program in order to pass a certifying exam. Under the Act, a recently graduated specialist dentist likely would not be eligible to secure a specialty license and therefore would not be eligible to practice in DC. This new licensing requirement would be implemented when an increasing number of late career specialists are retiring and when the District needs an influx of additional specialists to fill the gap to increase the healthcare workforce to treat a growing population.

#### **The Act Would Force Specialists to Violate U.S. Principles Regulating Advertising**

Laws and regulations in the United States at the federal and state level pertaining to advertising and marketing are founded upon two principles:

- Advertising must be truthful.
- Advertising must not be misleading.

The Act purports as a goal to “ensure that dentists are appropriately qualified to practice dental specialties and to hold themselves out to the public as specialists.” As noted above, specialist dentists have completed 2-6 years of post-doctoral training in their chosen specialty and are qualified to practice. The requirement in the Act that a specialist must hold a current certification from a recognized dental specialty certifying board (new Sec. 508c.2) would prevent qualified specialists from practicing and from presenting themselves to the public as a specialist. Therefore, the Act would infringe upon the First Amendment right of specialists to communicate to the public truthful information about the advanced, post-doctoral training they have completed that qualifies them as a specialist.

Furthermore, the Act would force the Board of Dentistry and specialists who have achieved board certification to engage in misleading speech by indicating that only specialists who have achieved board certification are qualified to practice as a specialist. Board certification has no impact on clinical care and is not necessarily an indicator of the experience of the dentist.

#### **The Act Would Require a Second License**

The Act would require specialist dentists to obtain a second license from the Board of Dentistry in addition to their dental license (new Sec. 508c.1) instead of establishing a single dental license that notes the recognized specialty. In comparison, Virginia does not require board certification for any dental specialty. A separate registration is required only for oral and maxillofacial surgeons (OMS). For other specialists in Virginia, registration of specialty is part of the license application process. In Maryland,

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when a dentist initially applies to be identified as a specialist, board certification is not required, only proof of completion of a specialty training program.

Under DC law, dentists and other dental professionals are required to renew their license every two years. The most recent license renewal period occurred at the end of 2023. The proponents of the legislation provide no compelling rationale for why specialist dentists should be required to obtain a second, specialty license within one year from passage instead of implementing any new registration or licensing requirement as part of the licensure renewal process at the end of 2025. Likewise, the proponents of the legislation provide no compelling rationale for why a second license is required for specialists instead a single license like in Virginia or Maryland.

### **Provisions We Support**

There are three provisions that we support in the Act that would amend section 102 paragraph 5 (D.C. Official Code § 3-1201.02) to expand the definition of the practice of dentistry:

- Subparagraph A authorizes dentists to place and remove dental implants. This change explicitly acknowledges procedures that dentists have been performing for decades and preempts any potential confusion related to the addition of the definition of oral and maxillofacial surgery to the DC Code in subparagraph 10A.
- Subparagraph K authorizes dentists to administer immunizations and vaccinations when certified by the Board of Dentistry to do so. This expansion is an acknowledgement of the critical role that dentists serve in advancing the health and well-being of the Washington community. We are concerned that implementation of this provision may be delayed by the timing of action by the Board of Dentistry to enact regulations to recognize acceptable training programs.

Earlier this year, the Board of Dentistry finalized regulations to expand the scope of practice for dental assistants to create the position of Level III Dental Assistant. The regulations became effective on March 1, 2024, the date of publication in the District of Columbia Register, however the Board of Dentistry has yet to publish a list of the approved hands-on course specified in the regulation as a requirement for registration as a Level III Dental Assistant. The result is that no qualified or potentially qualified dental assistant can apply to register as Level III Dental Assistant despite codifying the position in DC regulations.

- Subparagraph L authorizes dentists to use “botulinum toxin [e.g., BOTOX® Cosmetic] or another neurotoxin approved by the Food and Drug Administration.” Dentists are well suited to administer botulinum toxin injections and other neurotoxins because of their extensive knowledge of facial anatomy, muscles, and nerves. Dentists also routinely administer intraoral injections, and the administration of botulinum toxin or other neurotoxins requires similar skills as those procedures.

Subparagraph L also contains two limiting provisions that are of concern:

- “to treat a diagnosed dental condition approved by the Mayor through rulemaking” – we are concerned that implementation of subparagraph L will be delayed by the timing

- of implementing regulations and that the list of procedures approved by the Mayor will be unreasonably restricted. Furthermore and as noted above, dentists regularly perform procedures similar to administering botulinum toxin or other neurotoxins. Specialized training, addressed specifically in our next comment, could be designed to cover the use of botulinum toxin or other neurotoxins for cosmetic as well as dental purposes.
- “when certified by the Board of Dentistry to do so” – we support the requirement that dentists be properly trained in the use of botulinum toxin and other FDA-approved neurotoxins. Similar to our concern noted above regarding the speed by which the Board of Dentistry develops and implements regulations, we are concerned that implementation of subparagraph L may be delayed for years due to the slow pace of the regulatory approval process.
  
  - We wish to reiterate an alternate approach that we offered to the Committee on Health in our letter of December 15, 2023, on the Health Occupations Revision General Amendment Act of 2023. In 2023 the Commonwealth of Virginia adopted legislation to authorize dentists to administer botulinum toxin for cosmetic purposes. We propose the following substitute language for subparagraph L that adapts the legislative language adopted in Virginia last year:
    - (L) In addition to the possession and administration of botulinum toxin injections for dental purposes, a dentist may possess and administer botulinum toxin injections for cosmetic purposes, provided that the dentist has completed training and continuing education in the administration of botulinum toxin injections for cosmetic purposes, as deemed appropriate by the Board of Dentistry.

### **Conclusion**

Thank you for your attention and consideration of our concerns regarding the proposal to establish a secondary license for specialist dentists. If enacted in its current form, approximately half of the specialist dentists currently practicing in the District would be forced to relocate to Maryland or Virginia. The impact on the health and well-being of District residents would be profound due to delays in receiving specialized care and an increased likelihood that they would need to travel outside of the District to receive that care.

We welcome the opportunity to work collaboratively to advance legislation that empowers dentists to continue to support public health and the safety of DC residents through the provision of timely and appropriate dental care that addresses the health needs of the public.

Sincerely,

[\*\*ADD YOUR SIGNATURE VIA OUR SIGN-ON FORM\*\*](#)