

103^D CONGRESS
1ST SESSION

H. R. 729

To prohibit discrimination by the States on the basis of nonresidency in the licensing of dental health care professionals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 1993

Mr. McNULTY introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To prohibit discrimination by the States on the basis of nonresidency in the licensing of dental health care professionals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PROHIBITION AGAINST DISCRIMINATION BY**
4 **STATES IN LICENSING OF NONRESIDENT**
5 **DENTAL HEALTH CARE PROFESSIONALS.**

6 (a) IN GENERAL.—If a dental health care profes-
7 sional has been licensed by a State to provide dental health
8 care, another State may not, in considering an application
9 by the professional for a license to provide the dental serv-
10 ices involved, discriminate against the professional on the

1 basis that the professional is not a resident of the State
2 or that the professional was first granted the license in-
3 volved by another State.

4 (b) **RULE OF CONSTRUCTION.**—A State shall be con-
5 sidered to be in violation of subsection (a) if, with respect
6 to licensing a professional who is already licensed by an-
7 other State for purposes of subsection (a), the State im-
8 poses on such licensed professional requirements in addi-
9 tion to, or different from, the requirements imposed by
10 the State in considering an application that—

11 (1) is made by a resident of the State who
12 holds the relevant license; and

13 (2) is made for the purpose of certification of
14 the competence of such resident to continue practic-
15 ing in the State, or for the purpose of renewing such
16 license, or both.

17 **SEC. 2. ENFORCEMENT.**

18 (a) **CIVIL CAUSE OF ACTION BY AGGRIEVED INDI-**
19 **VIDUAL.**—

20 (1) **IN GENERAL.**—Any dental health care pro-
21 fessional who is aggrieved as a result of a violation
22 of section 1 by a State may, in any court of com-
23 petent jurisdiction, commence a civil action against
24 the State to obtain preventive relief, including dam-
25 ages and injunctive relief. The court involved may,

1 in the discretion of the court, allow the prevailing
2 party a reasonable attorney's fee and costs.

3 (2) LIMITATION ON ACTION.—A dental health
4 care professional may not commence proceedings
5 under paragraph (1) against a State for a violation
6 of section 1 after the expiration of the 5-year period
7 beginning on the date on which the State allegedly
8 engaged in the violation.

9 (b) CIVIL CAUSE OF ACTION BY ATTORNEY
10 GENERAL.—

11 (1) IN GENERAL.—If the Attorney General has
12 reason to believe that a State is engaged in a pat-
13 tern or practice in violation of section 1, the
14 Attorney General may commence a civil action in the
15 appropriate district court of the United States to ob-
16 tain preventive relief, including damages and injunc-
17 tive relief.

18 (2) INTERVENTION IN PRIVATE CIVIL AC-
19 TIONS.—With respect to a civil action commenced
20 under subsection (a)(1), the Attorney General may,
21 with the authorization of the court involved, inter-
22 vene in the action if the Attorney General certifies
23 that the case is of general public importance.

24 (c) ABROGATION OF STATE IMMUNITY.—With re-
25 spect to the availability of relief in civil actions under this

1 section that are brought in district courts of the United
2 States, the immunity of the States under the eleventh
3 amendment to the Constitution of the United States is
4 hereby abrogated, pursuant to the power granted to the
5 Congress by section 5 of the fourteenth amendment to the
6 Constitution.

7 **SEC. 3. DEFINITIONS.**

8 For purposes of this Act:

9 (1) The term “dental health care professional”
10 includes all general dentists, all dentists who are
11 specialists, and all dental hygienists, who are li-
12 censed by not less than 1 State, without regard to
13 whether such individuals hold appointments or for-
14 merly held appointments in the Public Health Serv-
15 ice or whether such individuals are or were members
16 of the Armed Forces.

17 (2) The term “State” means each of the several
18 States, the District of Columbia, and each of the
19 Commonwealth of Puerto Rico, the Virgin Islands,
20 Guam, American Samoa, the Commonwealth of the
21 Northern Mariana Islands, the Trust Territory of
22 the Pacific Islands, and any other territory or pos-
23 session of the United States.

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