

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 145

(Chair, Health and Government Operations
Committee)(By Request - Departmental - Health and
Mental Hygiene)

Health and Government Operations

Finance

**Board of Examiners of Nursing Home Administrators - Nonlicensed Persons -
Provisional Licensure**

This departmental bill establishes a provisional nursing home administrator license and authorizes the Board of Examiners of Nursing Home Administrators (BENHA) to issue such a license to an applicant if BENHA determines that the applicant is of good moral character and capable of adequately administering the nursing home for the provisional period. The bill clarifies that a nonlicensed person is authorized to act as an interim nursing home administrator under a provisional license for a period of 90 days after filing a specified application with BENHA. The bill also makes other technical and clarifying changes. The bill aligns statute with federal regulations regarding the granting of a provisional license to a nonlicensed individual appointed to act as interim nursing home administrator when the licensed nursing home administrator has left or been removed from his or her position due to death or for any other unexpected cause.

Fiscal Summary

State Effect: The Department of Health and Mental Hygiene (DHMH) can handle the bill's requirements with existing resources. Revenues are not materially affected.

Local Effect: None.

Small Business Effect: DHMH has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary: In the event that BENHA denies the application for a provisional license, the nonlicensed person must immediately cease acting as the interim nursing home administrator. If a licensed nursing home administrator is still not available, the owner or other appropriate nursing home authority must immediately appoint another nonlicensed person to act as interim nursing home administrator. That individual must also apply for a provisional license.

The bill specifies that BENHA may extend the 90-day period that the nonlicensed person may act as an interim nursing home administrator under a provisional license for up to 30 days on request and for good cause.

The bill also clarifies that, in the event a licensed nursing home administrator is not available, the owner or other appropriate nursing home authority *must immediately*, rather than *may*, appoint a nonlicensed person to serve as interim nursing home administrator.

Current Law: The owner or appropriate authority of a nursing home may appoint a nonlicensed person to serve as an acting nursing home administrator in the event that a licensed nursing home administrator is not available following the departure or removal of a licensed nursing home administrator due to death or any other unexpected cause. The owner or appropriate authority of a nursing home must notify BENHA of the appointment and forward the credentials of the person appointed to BENHA for evaluation. The person appointed to serve as an acting nursing home administrator must submit to a specified criminal history records check (CHRC), unless the person is licensed by a health occupations board and has previously completed a CHRC to obtain a license. BENHA may deny approval of an appointment of a nonlicensed person to serve as an acting nursing home administrator based on the results of the CHRC, after considering specified factors.

If approved, the nonlicensed person is authorized to act as an acting nursing home administrator for a period of 90 days beginning on the date that the licensee leaves or is removed from the position of nursing home administrator. BENHA may extend the 90-day period for up to 30 days.

Background: Federal regulations require that a nursing home be operated by a licensed nursing home administrator and establish that, in unexpected circumstances where a licensed individual is not available, an unlicensed individual may be granted a provisional license to act as an interim nursing home administrator. DHMH advises that Maryland law does not currently authorize BENHA to issue a license, provisional or otherwise, for the interim unlicensed person. The bill is intended to make statute compliant with federal regulations by authorizing the issuance of a license and, thus, authorizing BENHA to discipline or suspend the provisional licensee if necessary. The bill is also intended to

ensure that, except for the limited duration of the application period, a nursing home is operated by a licensed individual at all times. DHMH estimates that one provisional license may be issued each year.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene; Department of Legislative Services

Fiscal Note History: First Reader - January 30, 2017
fn/jc Third Reader - March 15, 2017

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES
Department of Health and Mental Hygiene
Session 2017

**TITLE OF PROPOSAL: Board of Examiners of Nursing Home Administrators –
Nonlicensed Persons – Provisional Licensure**

BILL NUMBER: HB 145

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PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The Board would not charge an application fee for individuals applying for the provisional license. However, an applicant would be required to pay the fee for a criminal history records check to Criminal Justice Information Services (CJIS) within the Department of Public Safety and Correctional Services. The Board estimates that one provisional license would be issued each year and can complete the additional work required under the bill within existing resources.