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FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 395

(Chair, Education, Health, and Environmental Affairs
Committee)

Education, Health, and Environmental Affairs

Health and Government Operations

State Board of Physicians and Allied Health Advisory Committees - Sunset
Extension and Program Evaluation

This emergency bill extends the termination date of the State Board of Physicians (MBP) and its related allied health advisory committees by 10 years to July 1, 2030, and generally implements the recommendations of the Department of Legislative Services' (DLS) December 2019 full sunset evaluation of MBP. The bill also makes specified provisions consistent for physicians and allied health professionals, establishes time limitations for certain exceptions to licensure, establishes time requirements for certain notices that must be provided to MBP, and requires MBP to submit an additional report on improving consistency and eliminating redundancy between practitioners regulated by MBP.

Fiscal Summary

State Effect: Revenues and expenditures for MBP continue until July 1, 2030. MBP can implement the bill's changes with existing budgeted resources. The Governor's proposed FY 2021 budget includes \$10.2 million for board operations.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: In addition to extending MBP's termination date, the bill makes a variety of changes to clarify or enhance the board's statutory authority, increase uniformity in processes among the health occupations regulated by the board, enhance board

effectiveness, and remove outdated requirements and references in board operations. Among other things, the bill's primary provisions:

- Authorize an athletic trainer to begin practice on the date that the applicant receives acknowledgement that board staff has received the completed application for an athletic trainer license and accompanying evaluation and treatment (E&T) protocol appropriate to the scope of practice without first receiving approval from the Athletic Trainer Advisory Committee if the protocol is given preliminary approval by board staff and (1) does not include specialized tasks or (2) includes specialized tasks that have been previously approved by the board.
- Clarify that a physician assistant may begin practice on the date that the applicant receives acknowledgement that board staff has received the completed delegation agreement.
- Authorize the board to terminate an E&T protocol or a delegation agreement in specified circumstances, including when either a supervising physician or an allied health practitioner has a specified change in licensure status and no acceptable alternate physician is available.
- Require a supervising physician and physician assistant to notify MBP within 10 days of the termination of a relationship under a delegation agreement.
- Clarify that an athletic trainer may terminate an E&T protocol at any time and the procedures an athletic trainer or physician assistant may perform if their supervising physician becomes unavailable.
- Authorize a hospital to bring in a specified physician who is licensed and resides in another jurisdiction to practice medicine without a Maryland license while engaged in clinical training with a licensed physician in Maryland without the need for application to the board for up to a total of 14 days in the calendar year.
- Create an exception to licensure to allow a respiratory care practitioner licensed outside the State to practice respiratory care on a patient who is being transported into Maryland for up to a total of 14 day in the calendar year.
- Authorize the board to provide a respondent at least 10 business days (rather than 10) to address findings in a peer review for cases of failure to meet appropriate standards of care.
- Add a disciplinary ground for physicians and physician assistants for failure to comply with the requirements of the Prescription Drug Monitoring Program.
- Allow the board to impose terms and conditions on a licensee *in addition to* a disciplinary sanction and to impose a fine *only in addition to* another sanction.
- Make good moral character a requirement for all license types for license renewal.
- Authorize the board to issue a cease and desist order for practicing an allied health profession without a license and for misrepresentation that an individual is authorized to practice an allied health profession.

- Require a licensee profile to specify that malpractice information is “as reported to the board by the licensee.”
- Clarify that an applicant for licensure or license reinstatement must *complete*, rather than *submit to*, a criminal history records check (CHRC) and authorize the board to discipline a licensee for failure to *complete* a CHRC.

Current Law/Background: MBP is charged with enforcing the Maryland Medical Practice Act and the Maryland Physician Assistants Act. Among its duties, MBP must (1) adopt regulations to carry out the provisions of law for which it is responsible; (2) establish policies for board operations; (3) oversee licensing of physicians and allied health professionals; (4) review and investigate complaints; (5) report on all disciplinary actions, license denials, and license surrenders; (6) appoint members of the disciplinary panels; and (7) develop and approve an annual report.

Statutory provisions place several allied health professions under the jurisdiction of MBP and establish seven allied health advisory committees that assist MBP in its oversight role. These committees are composed of representatives of the regulated professions, physicians, and consumers. The allied health professions under the jurisdiction of MBP are (1) physician assistants; (2) radiographers, radiation therapists, nuclear medicine technologists, and radiologist assistants; (3) respiratory care practitioners; (4) polysomnographic technologists; (5) athletic trainers; (6) perfusionists; and (7) naturopathic doctors.

MBP is 1 of approximately 70 regulatory entities and activities subject to evaluation under the Maryland Program Evaluation Act (MPEA). Entities subject to MPEA may be evaluated by the DLS only as directed by specified entities or by legislation. Most such entities are subject to termination, including MBP, which is scheduled to terminate June 1, 2020. Accordingly, the evaluation process is better known as sunset review.

DLS completed a full sunset evaluation of MBP and its advisory committees in December 2019. A copy of the DLS sunset report can be found at <http://dls.maryland.gov/pubs/prod/SunsetRevHlth/Physicians/2019-Physicians.pdf#search=physicians%20AND%20sunset>.

DLS found that MBP and its related allied health advisory committees have continued to progress since the last DLS sunset evaluation in 2016. The board functions well and meets its statutory missions. In addition, MBP has implemented the recommendations included in the 2016 evaluation or otherwise addressed the issues raised at that time. DLS found that MBP’s statutory authority could be clarified or enhanced, particularly related to the ability to take disciplinary action. Likewise, board processes could be refined, and MBP’s responsiveness to licensees could be improved. Accordingly, recommendations made by DLS generally provide clarity to existing statute, increase uniformity in processes among

the health occupations regulated by MBP, enhance board effectiveness, and remove outdated requirements and references. In total, DLS offered 28 recommendations. Furthermore, DLS recommended that the termination dates for MBP and the related allied health advisory committees be extended to July 1, 2030.

The bill generally codifies the recommendations of the report.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 560 (Chair, Health and Government Operations Committee)
- Health and Government Operations.

Information Source(s): Maryland Department of Health; Department of Legislative Services

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