

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 82 (Senator Eckardt)
 Education, Health, and Environmental Affairs

Certified Nursing Assistants - Licensing Requirements

This bill repeals the geriatric nursing assistant credential and references to “geriatric nursing assistant” and replaces them with certified nursing assistant (CNA). Beginning October 1, 2023, an applicant for initial certification as a CNA must submit to the State Board of Nursing (BON) evidence of passing a nursing assistant competency evaluation that meets federal requirements and is approved by BON; an applicant for renewal must provide evidence of passing a nursing assistant competency evaluation approved by BON. By October 1, 2022, BON must adopt regulations for the licensing of CNAs consistent with specified federal requirements and develop procedures to assist individuals certified as CNAs prior to October 1, 2022, in achieving compliance with the requirements of the bill. **The bill generally takes effect October 1, 2022, except for the requirement that BON adopt regulations and develop procedures, which takes effect June 1, 2022.**

Fiscal Summary

State Effect: No effect in FY 2022. BON special fund expenditures increase by *at least* \$128,000 beginning in FY 2023 for contractual staff. Future years reflect termination of the contractual positions in FY 2026. Revenues are not affected.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	128,000	106,600	110,200	53,500	169,500
Net Effect	(\$128,000)	(\$106,600)	(\$110,200)	(\$53,500)	(\$169,500)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill alters the definition of “certified nursing assistant” to mean an individual, regardless of title, who routinely performs nursing tasks delegated by a registered nurse or licensed practical nurse for compensation and *has successfully completed the requirements mandated under federal law and board regulations.*

Current Law: In general, an individual must be certified by BON to practice as a nursing assistant in the State; a CNA routinely performs nursing tasks delegated by a registered nurse or licensed practical nurse. CNAs can obtain additional certification as a geriatric nursing assistant, home health aide, certified medicine aide, or dialysis technician.

“Geriatric nursing assistant” means a certified nursing assistant who has successfully completed the requirements for geriatric nursing assistant under federal law and the regulations of the board.

To apply for a nursing assistant certificate, an individual must (1) submit an application; (2) provide evidence of successful completion of an approved nursing assistant training program or a portion of an approved nursing education program that meet the requirements of a nursing assistant training program; (3) pay an application fee; (4) be of good moral character; (5) be at least 16 years old; and (6) submit a criminal history records check.

Under Maryland regulations ([COMAR 10.39.01.07](#)), a nursing assistant certificate must be renewed every two years. CNAs may renew their certificates for an additional term if the certificate holder:

- is otherwise entitled to be certified;
- submits a renewal application;
- pays a renewal fee, and provides satisfactory evidence of completion of (1) 16 hours of active nursing assistant practice within the two-year period immediately preceding the renewal or (2) an approved nursing assistant training program.

BON must renew the certificate of each nursing assistant who meets renewal requirements.

Nurse Assistant Training Programs

Chapter 161 of 2021 authorizes CNAs to renew their certificates if they did not complete 16 hours of required active practice within the two-year period preceding renewal by instead providing satisfactory evidence of completion of an approved nursing assistant refresher training program. Chapter 161 required BON to adopt regulations to specify (1) the circumstances under which a CNA is required to complete an approved nursing

assistant training program or refresher training program and (2) the number of didactic instruction hours and clinical training hours the nursing assistant training program or refresher training program must have to be approved. Regulations must be consistent with federal law.

Nursing Assistant Training Programs

Under Maryland regulations ([COMAR 10.39.02](#)), nursing assistant training programs are generally approved by BON. Training programs must provide a minimum of 60 hours of didactic instruction and classroom laboratory practice and 40 hours of clinical training in a clinical facility. Each training program must have an objective final examination that measures achievements of specified performance indicators. BON compiles a list of approved nursing assistant training programs on its [website](#). BON does not currently provide oversight to nursing assistant refresher programs.

Federal Regulations

Federal regulations set requirements for nurse aid competency evaluations ([42 CFR § 483.154](#)). States must review and approve nurse aide training and competency evaluation programs ([42 CFR § 483.151](#)) and establish and maintain a registry of nurse aids ([42 CFR § 483.156](#)).

Under these regulations ([42 CFR § 483.152](#)), a nurse aid training and competency evaluation program must, at minimum (1) consist of no less than 75 hours of training; (2) include specified subjects; (3) include at least 16 hours of supervised practical training; (4) ensure students do not perform services they are not trained for and remain under the general supervision of a licensed nurse or registered nurse; (5) meet specified requirements for instructors; and (6) contain specified competency evaluation procedures.

State Expenditures: In fiscal 2021, BON regulated a total of 203,303 CNAs, issuing 6,466 new certifications and 25,121 renewal certifications in fiscal 2021 alone. Altering certification requirements for CNAs will have a significant operational impact on BON and require additional resources.

Thus, BON special fund expenditures increase by *at least* \$128,032 in fiscal 2023. The bill's requirement that BON adopt regulations and develop procedures to assist current CNAs to meet the bill's requirement by October 1, 2023 take effect June 1, 2022. Thus, this estimate reflects the cost of hiring two contractual staff beginning July 1, 2022 to assist BON in adopting regulations and developing procedures by October 1, 2022, and to review and track the new certification requirements for both new and renewal applicants beginning October 1, 2023. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The estimate does not reflect any additional administrative changes

necessary to implement the bill, including changes to the CNA application or related information systems changes.

Contractual Positions	2
Salaries and Fringe Benefits	\$112,816
Operating Expenses	<u>15,216</u>
Total FY 2023 State Expenditures	\$128,032

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses. The contractual positions terminate at the end of calendar 2025, at which time all individuals certified prior to October 1, 2023, have completed their biennial renewals in compliance with the bill's requirements, and it is assumed that the revised certification process for CNAs can be handled by existing board staff.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

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

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