

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 407 (The President, *et al.*) (By Request - Administration)
Finance and Education, Health, and
Environmental Affairs

**Health Occupations - Health Care Staffing Shortage Emergency - Declaration
and Licensing and Practice Requirements (Health Care Heroes Act of 2022)**

This emergency Administration bill authorizes the Secretary of Health to declare a health care staffing shortage emergency. The Secretary must establish criteria for determining the conditions that require such a declaration; a declaration may not exceed 180 days. Each health occupations board must establish processes for the issuance of an initial health occupation license, a “temporary health occupation license,” and a “temporary practice letter” on an expedited basis during a declared health care staffing shortage emergency. The Secretary may direct the boards to implement these expedited licensing processes during a declared health care staffing shortage emergency. The bill authorizes certain health care practitioners to practice at a health care facility without a license or temporary practice letter under specified circumstances. The Secretary must adopt regulations to carry out the bill.

Fiscal Summary

State Effect: The Maryland Department of Health (MDH) can promulgate regulations and establish criteria for declaration of a health care staffing shortage emergency with existing budgeted resources. If the Secretary of Health declares a health care staffing shortage emergency, special fund revenues and expenditures for affected health occupations boards increase by an indeterminate amount, as discussed below.

Local Effect: None.

Small Business Effect: The Administration 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:

Definitions

“Health care facility” means a hospital, health maintenance organization, freestanding ambulatory care facility, assisted living facility, laboratory, home health agency, residential treatment center, comprehensive rehabilitation facility, forensic laboratory, substance-related disorder program, mental health program, nursing home, pharmacy, or any other facility as determined by the Secretary.

“Inactive license” means a licensee who holds a health occupation license issued by a health occupations board that has been placed on inactive status within the past eight years.

“Nursing graduate” means an individual who has satisfactorily completed all the requirements for a diploma or degree from (1) a registered nursing education program approved by the State Board of Nursing (BON) or (2) an out-of-state nursing education program determined to be equivalent to a program approved by BON.

“Retired health care practitioner” means an individual who has a valid health occupation license issued by a health occupations board within the past eight years that is not active and has not been placed on inactive status.

“Temporary health occupation license” and “temporary practice letter” means a health occupation license or practice letter issued by a health occupations board authorizing the holder to practice a specified health occupation in the State for a temporary period of time.

Secretary of Health Responsibilities

If the Secretary finds that an emergency has developed regarding the ability of health care facilities in the State to appropriately respond to the clinical needs of patients due to insufficient staff and that the staffing shortage endangers the public health in the State, the Secretary may declare a health care staffing shortage emergency.

The Secretary must establish the criteria for determining the emergency conditions that would require such a declaration, including consideration of (1) staffed bed occupancy rate; (2) staff vacancy rate for the specific category of health care practitioner included in the staffing shortage; (3) average emergency department wait times; (4) duration of vacancy rate for the specific category of health care practitioner included in the staffing shortage; (5) average staff vacancy rate for the immediately preceding 12 months for the specific

category of health care practitioner included in the staffing shortage; and (6) any other factors determined relevant by the Secretary.

Expedited Approval to Practice

The following individuals qualify for a health occupation license issued on an expedited basis during a health care staffing shortage emergency: (1) an applicant for a health occupation license; (2) an individual who holds a valid, unexpired health occupation license in another state; (3) an inactive licensee; (4) a “retired health care practitioner;” and (5) a “nursing graduate.”

The bill specifies the conditions under which an individual who holds a valid, unexpired health occupation license in another state; an inactive licensee; a retired health care practitioner; and a nursing graduate may practice in a health care facility under a health care staffing shortage emergency.

A health occupation license issued under a health care staffing shortage emergency authorizes the licensee to practice the specified health occupation for a limited period, as determined by the appropriate board and, if required, while the licensee completes additional requirements for licensure in the State. A health occupations board may not issue a license or temporary practice letter if the issuance would pose a risk to public health, welfare, or safety.

A temporary license or temporary practice letter authorizes the health care practitioner to practice the specified health occupation for a limited period, as determined by the appropriate board and subject to the duration of the health care staffing shortage emergency.

To apply for an initial health occupation license, a temporary health occupation license, or a temporary practice letter, an applicant must submit to the appropriate board (1) an application; (2) any document required by the board; (3) if a criminal history records check (CHRC) is required, proof of application for a CHRC; (4) any application fee; and (5) any other information required by the board.

Current Law/Background: Since the beginning of the COVID-19 pandemic, health care facilities have struggled to maintain staffing levels necessary to care for patients. To address these concerns, on March 12, 2020, Governor Lawrence J. Hogan, Jr., issued an [Executive Order](#) to extend all permits, licenses, registrations, and other governmental authorizations until after the state of emergency and catastrophic health emergency ended. On January 4, 2022, the Governor issued [Executive Order 22.01.04.02](#) to address augmenting the emergency medical services (EMS) workforce to control and prevent the spread of COVID-19. Licensing, certification, and credentialing requirements of EMS providers were suspended to address staffing shortages.

Health Occupation Boards

There are 20 health occupations boards within MDH that license and certify health care providers in the State. Each board shares the same goals of (1) protecting the public by ensuring that practicing health professionals are properly credentialed and licensed to provide high-quality services to Marylanders and (2) receiving, investigating, and resolving complaints in a timely manner. Each board has specified requirements for licensure or certification of the appropriate health care practitioner, as well as specified license and certification fees. In general, the health occupations boards are funded by special funds through licensing and certification fees, the majority of which are utilized for administrative purposes for regular and contractual staff.

State Revenues: Special fund revenues increase by an indeterminate amount if the Secretary declares a health care staffing shortage emergency under the bill. In the event of such a declaration, a health occupations board identified in the staffing shortage emergency may issue an initial license, a temporary license, or a temporary practice letter and collect associated application fees for those credentials. As the number of applicants who may apply cannot be determined at this time, any corresponding increase in special fund revenues cannot be reliably estimated.

State Expenditures: Special fund expenditures increase by an indeterminate amount if the Secretary declares a health care staffing shortage emergency under the bill. If an identified health occupations board experiences an influx of applications due to the staffing shortage emergency, temporary contractual staff may be required to help process applications and issue initial or temporary licenses or practice letters under the bill. As the number of applicants who may apply cannot be determined at this time, the need for contractual staff cannot be reliably estimated. However, to the extent that additional staff are needed, special fund expenditures increase accordingly.

The State Board of Nursing estimates that three contractual staff would be needed if a health care staffing shortage emergency is declared. Contractual staff would evaluate applications and issue the necessary certifications, licenses, or temporary practice letters.

The Maryland Board of Physicians (MBP) estimates two staff would be needed to address the expedited initial or temporary licensure of physicians and allied health practitioners. MBP also anticipates the need for contractual services costing approximately \$125,000 to update the board's licensing system software.

The State Board of Dental Examiners anticipates the need for two contractual staff to process applications and issue initial and temporary licenses if dentists are identified in a health care staffing shortage emergency.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 407 (The Speaker, *et al.*) (By Request - Administration) - Health and Government Operations.

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

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rh/jc

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Health Occupations – Health Care Staffing Shortage Emergency –
Declaration and Licensing and Practice Requirements (Health Care Heroes
Act of 2022)

BILL NUMBER: SB 407

PREPARED BY: Jake Whitaker

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