

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 93

(The President)(By Request - Department of Legislative
Services)

Finance

Health and Government Operations

**State Board of Examiners of Nursing Home Administrators - Sunset Extension
and Program Evaluation**

This bill extends the termination date for the State Board of Examiners of Nursing Home Administrators by four years to July 1, 2017, adds the State Long-Term Care Ombudsmen to the board, and requires an evaluation of the board by July 1, 2016. The bill includes a related reporting requirement.

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: General fund revenues and expenditures for the board are maintained beyond FY 2013. The Governor's proposed FY 2012 budget includes \$176,142 in general funds for board operations. The bill's reporting requirement and any expense reimbursements for the new board member can be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: By October 1, 2011, the board must submit a report to specified committees of the General Assembly on:

- a plan to improve the timeliness and functioning of its disciplinary process, including the complaint investigation process;
- a review of trends in licensing;
- implementation of an online renewal process;
- implementation of the planned database to track deficiency survey reports;
- implementation of new and revised regulations proposed through the Regulatory Review and Evaluation Process in 2009; and
- the additional revenue generated from alterations to the fee structure through proposed regulatory changes.

Current Law/Background:

Maryland Long-Term Care Ombudsman Program

The Maryland Long-Term Care Ombudsman Program within the Maryland Department of Aging receives and resolves complaints made by or for residents of long-term care facilities, which includes nursing homes and assisted living facilities. The program consists of one State ombudsman and staff that work in 19 local area agencies on aging that cover all of Maryland's 23 counties and Baltimore City.

Maryland Program Evaluation Act

The board is 1 of approximately 70 regulatory entities and activities currently subject to periodic evaluation under the Maryland Program Evaluation Act. The Act establishes a process better known as "sunset review" as most agencies evaluated are also subject to termination, including the State Board of Nursing Home Administrators, which is scheduled to terminate July 1, 2013. The sunset review process begins with a preliminary evaluation conducted by the Department of Legislative Services (DLS) on behalf of the Legislative Policy Committee (LPC). LPC decides whether to waive an agency from further (or full) evaluation. If waived, legislation to reauthorize the agency typically is enacted. Otherwise, a full evaluation usually is undertaken the following year.

Oversight of Nursing Homes and Nursing Home Administrators

Federal law requires that both nursing homes and nursing home administrators in all states be regulated. In Maryland, about 230 nursing homes are licensed and regulated by the Office of Health Care Quality in the Department of Health and Mental Hygiene. Nursing home administrators, those individuals responsible for the daily management of nursing homes, are licensed and regulated by the State Board of Examiners of Nursing Home Administrators.

The board was created by the General Assembly in 1970 and is under the direction of the Office of the Secretary of Health and Mental Hygiene. Federal regulations require the board to develop, impose, and enforce licensure standards; develop and apply appropriate techniques for applicants for licensure and investigation of credentials; issue, deny, suspend, or revoke licenses, as appropriate; investigate and take appropriate action with respect to any complaint; and conduct a continuing study and investigation of nursing homes and administrators to improve licensing standards and enforcement of those standards (42 USC 1396(g) and *Code of Federal Regulations*, § 431.700-715). The board is funded by an appropriation from the general fund but has the authority to raise revenue through fees. All fee revenue collected by the board is likewise credited to the general fund.

Sunset Evaluation Findings and Recommendations

The board last underwent a full evaluation as part of sunset review in 2001. Based on that evaluation, DLS recommended an extension of the board's termination date to July 1, 2013. Chapter 184 of 2002 extended the termination date of the board as recommended and required the board to report on implementation of other recommendations of the evaluation by October 1, 2002, and on the board's evaluation of the Administrator-in-Training program by October 1, 2003. Both reports were submitted.

A preliminary sunset evaluation conducted by DLS in 2009 found that the board generally functions well to fulfill federally mandated requirements. Therefore, DLS recommended that the board be waived from full evaluation and that legislation be enacted to extend the board's termination date by four years to July 1, 2017.

DLS also found that, while the board has experienced some difficulties in completing complaint investigations, the hiring of a shared investigator has enabled some outstanding complaints to move closer to resolution. Also, the board has begun to make changes to improve its training, licensure, and disciplinary processes through regulations, though changes are not yet final. Furthermore, the board has been slow to implement several of the recommendations included in past sunset evaluations and other reports. Thus, DLS recommended the board be extended for only four years (rather than the typical 10-year extension) and submit a report by October 1, 2011, on its plans to address these concerns. This bill primarily implements those recommendations, as adopted by LPC at its December 15, 2009 meeting.

Additional Information

Prior Introductions: SB 144 of 2010 passed in the Senate but received no further action after a hearing in the House Health and Government Operations Committee. Its cross file, HB 137, received a hearing in the House Health and Government Operations Committee, but no further action was taken.

Cross File: HB 64 (The Speaker)(By Request - Department of Legislative Services) - Health and Government Operations.

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

Fiscal Note History: First Reader - January 28, 2011
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