

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

House Bill 900 (Delegate Kach)
Health and Government Operations Education, Health, and Environmental Affairs

**Maryland Board of Physicians - Failure to Renew a License or Misrepresentation
as a Licensed Person - Penalties**

This bill establishes that a person who misrepresents to the public that the person is authorized to practice medicine or a licensee who fails to renew a license is (1) guilty of a felony and on conviction is subject to a fine of up to \$10,000 and/or imprisonment for up to five years and (2) subject to a civil fine of up to \$50,000 to be levied by the State Board of Physicians (MBP), payable to the State Board of Physicians Fund. These penalties do not apply to a licensee who fails to renew if the licensee has applied for renewal, including payment of the renewal fee, within 60 days of the expiration of the license.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues due to the bill's penalty provisions. Potential minimal increase in special fund revenues for MBP due to the expanded authority to issue civil fines. Expenditures are not likely affected.

Local Effect: Potential minimal increase in revenues due to the bill's penalty provisions.

Small Business Effect: None.

Analysis

Current Law: Except as otherwise provided in Title 14 of the Health Occupations Article, a person may not practice, attempt to practice, or offer to practice medicine in this State unless licensed by the board. Unless authorized to practice medicine, a person may not represent to the public, by description of services, methods, or procedures, or

otherwise, that the person is authorized to practice medicine in Maryland. A person is also prohibited from using the words or terms “Dr.,” “doctor,” “physician,” “D.O.,” or “M.D.” with the intent to represent that the person practices medicine, unless the person is licensed in Maryland, except under specific circumstances.

Generally, a person who violates any provision of Subtitle 6 of Title 14 of the Health Occupations Article is guilty of a misdemeanor and on conviction is subject to a fine of up to \$5,000 and/or imprisonment for up to five years. A person guilty of practicing without a license, with the exception of an individual who has failed to renew a license, is guilty of a felony and on conviction is subject to a fine of up to \$10,000 and/or imprisonment for up to five years and may be assessed a civil fine of up to \$50,000 by the board.

Before the expiration date of the license, a licensee must complete and return to the board the renewal form and renewal fee according to instructions. After the expiration date, a physician is no longer licensed to practice medicine. The period for late renewal is the two-month period immediately following the expiration date of the last renewal cycle. If a physician applies for renewal during this period, the penalty fee for late renewal applies. The physician is not authorized to practice medicine until the application for late renewal is approved by the board. The fee for late renewals in the most recent renewal period was \$614 (\$514 renewal fee and \$100 late fee). All licenses not renewed by the end of the late license renewal period automatically expire. Licenses are not reactivated until the application for renewal has been processed by the board and the payment has been processed. After the late period, physicians are required to file an application for reinstatement and pay the applicable fees to practice medicine in the State.

Background: According to the board, while it currently has the authority to sanction an individual for practicing medicine without a license, it does not have authority to sanction an individual who continues to practice on an expired license. Nor does it have authority to sanction an individual for misrepresentation to the public. The board anticipates that the number of such cases will be small.

State Revenues: General fund revenues may increase minimally as a result of the expanded application of an existing fine authorized under the bill from cases heard in the District Court.

Special fund revenues for the board may increase as a result of the authority to assess a civil fine of up to \$50,000 on individuals who misrepresent to the public that they are licensed to practice medicine or fail to renew their license. Actual revenues will depend on the number of violations and the actual civil fines imposed.

State Expenditures: General fund expenditures likely do not increase as the maximum period for incarceration for a felony conviction remains the same under the bill as under current law for a misdemeanor conviction.

Local Revenues: Revenues may increase minimally as a result of the expanded application of an existing fine authorized under the bill from cases heard in the circuit courts.

Additional Information

Prior Introductions: None.

Cross File: SB 690 (Senator Montgomery) - Education, Health, and Environmental Affairs.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy, Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Department of Public Safety and Correctional Services, State's Attorneys' Association, Department of Legislative Services

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