

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 942

(Senator Reilly)

Education, Health, and Environmental Affairs

Health and Government Operations

State Board of Physicians - Consultation, Qualification for Licensure, License
Renewal, and Representation to the Public

This emergency bill specifies the circumstances under which a physician engaged in consultation in the State may practice medicine without a license from the State Board of Physicians (MBP). The bill authorizes an applicant for a physician license who has failed specified examinations three or more times to qualify for a license under specified circumstances. The bill clarifies that a physician may not represent that he or she is board certified unless he or she meets the definition of "board certified." The bill requires the board to send renewal notices by either *electronic mail* or first-class mail to the last known *electronic or physical* address of the licensee. If MBP sends renewal notices exclusively by electronic mail, it must send such a notice by first-class mail on request of the licensee.

Fiscal Summary

State Effect: Minimal reduction in special fund expenditures for MBP beginning in FY 2013 to the extent that licensees elect to have renewal notices sent by electronic mail, thereby reducing printing and postage expenses. No effect on revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary:

Exceptions to Licensure for Consultation: A physician licensed by and residing in another jurisdiction may practice medicine in Maryland without a license if the physician is engaged in consultation with a physician licensed in the State about a particular patient and does not direct patient care. Alternatively, a physician who is licensed and resides in another jurisdiction may practice medicine without a Maryland license while engaged in clinical training with a licensed physician if specified conditions are met.

Generally, the physician may teach or learn a skill or procedure if the board finds, on application by a Maryland hospital, that either the physician possesses *or* the hospital provides training in a skill or procedure that (1) is advanced beyond those skills or procedures normally taught or exercised in that hospital or in standard medical education or training; (2) could not otherwise be conveniently taught or demonstrated in standard medical education or training in that hospital or in the visiting physician's practice; and (3) is likely to benefit Maryland patients. In both cases, the demonstration or exercise of the skill or procedure may take no longer than 14 consecutive days within a calendar year. A hospital physician licensed in the State must certify to the board that he or she will be responsible for the medical care provided by the visiting physician. The visiting physician may not have any disciplinary history in another state or jurisdiction (including the Armed Forces), nor any significant detrimental malpractice history. The visiting physician must be covered by malpractice insurance in his or her licensed jurisdiction, and the hospital must assure the board that patients will be protected by adequate malpractice insurance.

Board Exceptions for Licensure Qualifications: The bill repeals the requirement that an applicant for a physician license who has failed the examination or any part of the examination three or more times submit evidence of having completed one year of additional clinical training in an approved postgraduate training program following the latest failure and instead authorizes such an applicant to qualify for a license if the individual (1) has successfully completed two or more years of an accredited residency or fellowship; (2) has at least five years of clinical medical practice in the United States or Canada, with at least three of the five years having occurred within five years of the date of application, provided that the clinical practice was under a full unrestricted license to practice medicine and no disciplinary action is pending or has been taken against the applicant that would be grounds for discipline by MBP; or (3) is board certified.

Current Law:

Exceptions to Licensure for Consultation: MBP has the authority to allow certain individuals to practice medicine in the State without a license. Specifically, a physician licensed by and residing in another jurisdiction, while engaging in consultation with a physician licensed in the State, may practice medicine without a license subject to the rules, regulations, and orders of the board. An example of this is a physician who is an expert in a certain field who comes into the State to consult with a Maryland physician regarding the treatment of a patient or teach a new surgical technique.

To be approved for an exception to licensure, the Maryland licensed physician must submit an application to the board that includes information about himself or herself and the physician (who does not hold a Maryland license) with whom he or she will be consulting. With the application, the Maryland licensed physician must include (1) a curriculum vitae of the consulting physician and (2) evidence that the teaching/learning institution where the consulting physician will practice medicine has credentialed the physician to perform the medical acts. When the board receives an application for an exception from licensure, licensing staff reviews the license of the sponsoring Maryland physician to verify licensure and to check for any compliance issues. The board also completes a search of the National Practitioner Data Bank for information related to the consulting physician. If the request is for 30 days or less, licensing staff can approve the application, and the board is notified of the approval at the next board meeting. If the request is for more than 30 days, the board must approve the request.

Board Exceptions for Licensure Qualifications: Although statute requires an applicant who fails the required examination or any part of the examination three or more times to submit evidence of having completed additional clinical training, board regulations authorize MBP, on a case-by-case basis, to consider licensure of the applicant under certain circumstances. The board may consider licensure of an applicant who has passed one of the required examinations or examination combinations with more than three fails if the applicant can demonstrate (1) that the failures resulted from a physical, emotional, or mental condition or learning disability; (2) that the individual has practiced clinical medicine in the United States or in Canada for a minimum of 10 years (with 3 years being within 5 years of the application) under a full, unrestricted license to practice medicine and the individual has never had a medical license restricted due to a disciplinary action in any state or in Canada; or (3) the individual is currently certified by specified boards.

Board Certified: Chapters 224 and 225 of 2012 (SB 395/HB 957) prohibit a physician from representing to the public that the physician is certified by a public or private board, including a multidisciplinary board, or that the physician is board certified unless (1) the physician discloses the full name of the board and the name of the specialty or

subspecialty and (2) the certifying board meets specified requirements. The certifying board must (1) be a member of the American Board of Medical Specialties (ABMS) or an American Osteopathic Association (AOA) certifying board; (2) be approved by MBP; or (3) require that a physician, in order to be certified, complete an accredited postgraduate training program that provides complete training in the specialty or subspecialty and be certified by the member board of ABMS or AOA in the same training field. The board may only approve a certifying board that places such requirements on a physician as a condition of certification.

Background: According to the board, the physician licensure statute (enacted in the early 1990s) does not reflect current standards and practices in medical education and, thus, severely limits the board's discretion to consider additional factors if an applicant did not pass standard examinations.

The board indicates that clarifying the circumstances under which a physician may practice without a license for purposes of consultation allows physicians, particularly at academic medical institutions, to consult with outside experts on a short-term basis in order to provide access to state-of-the-art care, while providing adequate patient protection.

Additional Information

Prior Introductions: None.

Cross File: None designated; however, HB 1313 (Delegate Cullison – Health and Government Operations) is identical.

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

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