

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 237

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

Education, Health, and Environmental Affairs

Health and Government Operations

Health Occupations - Sunset Extension and Program Evaluation

This bill extends the termination dates for three health occupations boards in the Department of Health and Mental Hygiene – the State Acupuncture Board, the State Board of Dietetic Practice, and the State Board of Occupational Therapy Practice – by 10 years to July 1, 2025, and requires evaluations of the boards by July 1, 2024. The bill includes related reporting requirements. The bill also makes a technical correction to the period of renewal of pharmacy and wholesale distributor permits issued by the State Board of Pharmacy.

The bill takes effect July 1, 2013.

Fiscal Summary

State Effect: Special fund revenues and expenditures for the State Acupuncture Board, the State Board of Dietetic Practice, and the State Board of Occupational Therapy Practice are maintained beyond FY 2015. The Governor’s proposed FY 2014 budget includes \$254,202, \$197,771, and \$522,178 in special funds for the operation of these boards, respectively. The bill’s reporting requirements can be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: Uncodified language requires the State Acupuncture Board and the State Board of Dietetic Practice, by October 1, 2013, to submit follow-up reports to specified committees of the General Assembly. The bill also corrects references to the American Dietetic Association and the Maryland Dietetic Association to be the Academy of Nutrition and Dietetics and the Maryland Academy of Nutrition and Dietetics to reflect the current names of these organizations.

Current Law/Background:

Maryland Program Evaluation Act

The State Acupuncture Board, the State Board of Dietetic Practice, and the State Board of Occupational Therapy Practice are 3 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 subject to termination, including these three boards, which are scheduled to terminate July 1, 2015. 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. The sunset reports on these boards can be found at <http://dls.state.md.us/Content.aspx?page=104>.

This bill implements the DLS recommendations stemming from the preliminary sunset evaluation reports on these three boards as adopted by LPC at its December 11, 2012 meeting.

The State Acupuncture Board

Chapter 620 of 1994 created the State Acupuncture Board. The board (1) licenses acupuncturists, registers auricular detoxification specialists, and issues certificates to practice acupuncture on animals; (2) receives and resolves complaints regarding acupuncturists; and (3) sets standards for the practice of acupuncture. As of June 30, 2012, the board had jurisdiction over 939 active licensed acupuncturists.

DLS found that the board is sufficiently meeting its mandated duties, including efficiently issuing licenses and taking disciplinary actions against licensees where warranted. The board has also been responsive to legislative changes, implementing them and updating regulations in a timely manner. Thus, DLS recommended that LPC

waive the board from full evaluation and that legislation be enacted to extend the board's termination date by 10 years to July 1, 2025.

DLS also found that board revenues have not kept pace with expenditures and the board's fund balance is well below the targeted 20% of expenditures. Given the board's fiscal position, DLS noted that the board will need to take action to keep revenues and expenditures in line by either decreasing expenditures or increasing revenues through such options as reducing the executive director to a 50% position, increasing fees, or sharing additional resources with other health occupations boards. DLS recommended that the board submit a follow-up report to specified committees of the General Assembly on how it will address its fiscal position.

The State Board of Dietetic Practice

The State Board of Dietetic Practice, established in 1985, fulfills its mission by issuing dietitian-nutritionist licenses, setting standards for the practice of dietetics, developing and enforcing regulations, resolving complaints, and educating the public. The board also enforces title protection of "licensed dietitian-nutritionist" to those individuals who are licensed by the board. As of June 30, 2012, a total of 1,588 active licensees and 145 inactive licensees were under the jurisdiction of the board.

DLS found that the board has fulfilled its duty through efficient and timely licensing and complaint resolution processes. Thus, DLS recommended that LPC waive the board from full evaluation and that legislation be enacted to extend the board's termination date by 10 years to July 1, 2025.

The DLS report indicated that most complaints submitted to the board concern the unlicensed practice of dietetics and noted two related issues. First, it is difficult for the public and potential providers of nutritional information to determine the difference between "practicing dietetics" and "providing services and information related to nonmedical nutrition." Second, the board remains limited in the action it can take in response to complaints alleging the unlicensed practice of dietetics. DLS recommended that the board consider (1) working with industry associations to more clearly define these terms and (2) what, if any, additional authority it may need to more effectively address complaints alleging the unlicensed practice of dietetics. DLS recommended that the board submit a follow-up report on these issues to specified committees of the General Assembly.

The State Board of Occupational Therapy Practice

The State Board of Occupational Therapy Practice, established in 1979, protects the citizens of Maryland and promotes quality health care in the field of occupational therapy

by licensing occupational therapists and occupational therapy assistants, setting standards for the practice of occupational therapy, and receiving and resolving complaints from the public regarding occupational therapists and occupational therapy assistants. As of September 2012, there were approximately 2,700 licensed occupational therapists and more than 500 licensed occupational therapy assistants practicing in the State.

DLS found that the board and its staff are functioning well, maintaining appropriate standards, and promoting a high level of professionalism. While the board had some recent issues with its budget and fund balances, the issues have been appropriately addressed and the board anticipates stabilization in its revenues and fund balance now that licenses are renewed on an annual rather than biennial basis. Thus, DLS recommended that LPC waive the board from full evaluation and that legislation be enacted to extend the board's termination date by 10 years to July 1, 2025.

Additional Information

Prior Introductions: None.

Cross File: HB 206 (The Speaker)(By Request - Department of Legislative Services) - Health and Government Operations.

Information Source(s): Department of Legislative Services

Fiscal Note History: First Reader - January 28, 2013
ncs/ljm Revised - Senate Third Reader - March 14, 2013

Analysis by: Jennifer B. Chasse

Direct Inquiries to:
(410) 946-5510
(301) 970-5510