

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 138

(Senator Conway)

Education, Health, and Environmental Affairs

Health and Government Operations

Health Occupations - Board of Physicians - Reinstatement of Licenses

This bill requires the State Board of Physicians (MBP) to *reconsider* the suspension or revocation of a physician's license under specified circumstances. If an order of suspension or revocation is based *solely* on the ground that the physician was disciplined by a licensing or disciplinary authority in another state and that authority reinstates the license, MBP, on request of the physician, must *reconsider* the suspension or revocation of the physician's Maryland license.

Fiscal Summary

State Effect: To the extent the bill requires MBP to reconsider cases it would not otherwise reconsider, special fund expenditures may increase by a minimal amount.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Subject to hearing provisions, a disciplinary panel of MBP may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if a licensee violates any 1 of 41 statutory disciplinary grounds. One such ground (Ground 21) is if the licensee is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action in Maryland. Ground 21 cases are also known as "reciprocal actions."

A license may only be reinstated in accordance with the terms and conditions of the order of suspension or revocation, an order of reinstatement issued by the panel, or a final judgment in any proceeding for review. An individual seeking reinstatement must meet the continuing medical education requirements for license renewal as if the individual were licensed during the period of suspension or revocation and pay any fines assessed by the board. If an order of suspension or revocation is based on a conviction for or guilty plea regarding a crime of moral turpitude and the conviction or plea subsequently is overturned, the suspension or revocation ends when the conviction or plea is overturned. Postdisciplinary procedures for reinstatement are further outlined in regulation (Code of Maryland Regulations 10.32.02.06).

Following an order of suspension, an individual may petition the board for reinstatement only when the specified period of suspension is completed. If termination of a suspension is contingent on the happening of an event, the licensee must demonstrate the event has occurred.

Following the revocation or surrender of a license, an individual must submit a written application for reinstatement, a reinstatement fee (currently \$550 to \$650 depending on whether the physician was eligible for renewal in the previous year), written responses to any questions the board may propose, and evidence of the completion of continuing medical education credits to the same extent as if the individual had been continuously licensed. If a license was revoked or surrendered while the licensee was under investigation or subject to disciplinary charges, the board may not consider the application for reinstatement unless (1) the specified time period has expired or (2) at least three years have passed since the date of the order and any contingent conditions have been met.

A reinstatement inquiry panel may conduct an informal inquiry and must make a recommendation to the full board. The full board must consider the reinstatement application, the licensee's responses to the written questions, and the supporting documentation and written arguments submitted, as well as the reinstatement inquiry panel's recommendation, and determine if reinstatement is in the interest of the health and welfare of the general public and consistent with the best interests of the profession. The board must issue a final written order on the reinstatement application. The order may (1) reinstate the license without conditions; (2) reinstate the license with one or more conditions such as probation, supervision requirements, or limitations on practice; or (3) deny reinstatement. A board decision denying reinstatement may set out when, if ever, a subsequent petition for reinstatement may be submitted.

Background: When a physician's license is suspended, the physician is still licensed in the State but cannot practice until the order of suspension is terminated. An order of suspension based on Ground 21 typically mirrors the order of suspension taken in the

originating jurisdiction. According to the board, the order specifies the terms for the order to be lifted (typically, that the order terminates when the disciplinary action in the other jurisdiction is resolved). If and when the originating jurisdiction ends the suspension or reinstates the license, the board receives notification from the Federation of State Medical Boards within 30 to 45 days. Upon receipt of this information, board staff terminates the suspension of the physician's Maryland license, provided the license has been actively maintained. No additional board action is required.

Conversely, when a physician's license is revoked, the physician is no longer licensed in Maryland and must petition the board for reinstatement according to postdisciplinary reinstatement procedures described above.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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