

Department of Legislative Services
2014 Session

FISCAL AND POLICY NOTE

House Bill 179

(Chair, Judiciary Committee)(By Request - Departmental
- Human Resources)

Judiciary

Judicial Proceedings

Adult Public Guardianship Review Board - Membership

This departmental bill alters the membership requirements for adult public guardianship review boards. The bill specifies that the nurse member must be a registered nurse rather than a public health nurse. The bill also alters the physician membership requirement by (1) establishing that one of the members must be a physician assistant, nurse practitioner, or a physician other than a psychiatrist and (2) repealing the requirement that the psychiatrist member must be employed by the local health department.

Fiscal Summary

State Effect: None.

Local Effect: None. Altering the requirements for board members does not affect local government finances.

Small Business Effect: The Department of Human Resources (DHR) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Current Law: A vulnerable adult is an adult who lacks the physical or mental capacity to provide for his or her daily needs. It is the policy of the State for vulnerable adults to have access to and be provided with needed professional services sufficient to protect their health, safety, and welfare.

If a local department receives a report that an alleged vulnerable adult has been subjected to abuse, neglect, self-neglect, or exploitation, the department is required to conduct a thorough investigation. Following an investigation, if an individual is determined to require protective services but is unwilling or unable to accept protective services voluntarily, the director may petition the court for the appointment of a guardian. A director of a local department in the county where the vulnerable adult lives may be appointed as guardian.

Every county is required to have an adult public guardianship review board. Two or more counties may agree to establish a single multicounty review board. The review board must generally review each guardianship that a public agency holds every six months. Guardianships that a public agency has held for more than one year must be reviewed at least annually, with a file review to take place at least every six months. Each time the review board reviews a guardianship, the board must recommend whether the guardianship should be continued, modified, or terminated.

Except in St. Mary's County, each 11-member review board is required to have:

- one professional representative of a local department;
- two physicians, including one psychiatrist from a local health department that employs psychiatrists;
- one representative of a local commission on aging;
- one professional representative of a local nonprofit social service organization;
- one lawyer;
- two lay individuals;
- one public health nurse;
- one professional in the field of disabilities; and
- one person with a physical disability.

Members are not entitled to compensation, but may be reimbursed for expenses. The membership of the board in St. Mary's County is identical to the listing above except for the physician requirement. St. Mary's County requires one physician who is not a psychiatrist and one who is a psychiatrist or a psychologist. There is no requirement in St. Mary's County that the psychiatrist member be employed by the local health department.

Background: DHR advises that allowing as much flexibility as possible in terms of the boards' composition is essential to the effectiveness of the boards. According to DHR, 79% of local jurisdictions report that it is becoming much more difficult to identify physicians willing to volunteer to serve on the review boards. Of those jurisdictions, 63% have vacancies in the physician seats on their boards. The duration of the vacancies

ranges from 2 months to 12 years, with the average duration of the vacancy being 5 years. Allowing physician assistants and nurse practitioners to serve on the boards is intended to better serve the needs of the vulnerable adults whose guardianships are periodically reviewed by the boards. DHR also notes that because there is a growing shortage of physicians working as general practitioners, more physician assistants and nurse practitioners are providing primary care to the general public under the supervision of a medical doctor. The bill is intended to enlarge the pool of qualified medical professionals from which to enlist volunteers to fill needed roles on the boards.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Human Resources, Maryland Association of Counties, Charles and Frederick counties, Department of Legislative Services

Fiscal Note History: First Reader - January 28, 2014
mc/lgc

Analysis by: Jennifer K. Botts

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

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Adult Public Guardianship Review Board – Membership

BILL NUMBER: HB 179

PREPARED BY: Department of Human Resources

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

None