

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

House Bill 58

(Delegate Reznik, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

Health Occupations - Members of Boards and Advisory Committees -
Prohibition Against Concurrent Service

This bill prohibits an individual from serving concurrently as a member of a health occupations board or an advisory committee and as an elected officer of a professional association that is organized under the laws of the State and represents and advocates for the interests of the individuals regulated by that health occupations board. An “advisory committee” means a committee established by statute or regulation that functions as a subunit of a health occupations board.

Fiscal Summary

State Effect: None. The bill codifies existing practice.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background: There is no statutory or regulatory prohibition against members of a health occupations board or an advisory committee serving concurrently as an elected officer of a professional association representing the interests of the individuals regulated by that health occupations board. However, § 5-502(b) of the General Provisions Article bars officials and employees of the State from (1) being employed or having a financial interest in an entity with which the employee is affiliated or an entity that contracts with or is under their agency’s authority or (2) having any other employment that would impair their impartiality or independence of judgment. There is an exception under § 5-502(c) that board members who hold such an employment or financial interest may hold the board position if they disclose their financial interest publicly to the appointing authority.

In 1987, the State Ethics Commission issued Advisory Opinion No. 87-1, which concluded that “service by board members as officers or directors of professional associations does result in an impairment of impartiality that would bring it within the prohibition of [the former] Public Ethics Law Article 40A § 3-103(a)(1)(ii) [now General Provisions § 5-502(b)], unless there are facts that, in the agency’s view, clearly support a conclusion that there would be no impairment...”

The Department of Health and Mental Hygiene’s Office of Appointments and Executive Nominations is responsible for recruiting and processing nominees for appointment to regulatory boards, task forces, commissions, and advisory councils. The office advises that the bill’s prohibition against concurrent membership is already implemented at the board level, in conformity with the State Ethics Commission’s advisory opinion.

According to the health occupations boards, the bill does not affect any current board or advisory committee members. When a potential appointee holds an elected position on a professional association, the appointee is asked to resign that position prior to appointment on the board or advisory committee.

Even so, the bill allows individuals to serve concurrently on a health occupations board or an advisory committee as an elected officer of a professional association if (1) the advisory committee is not established in State statute or regulation; (2) the association is a national or local association; or (3) the individual is serving on an advisory committee to a health occupations board that is not regulated by that particular board. For example, under this third scenario, a physical therapist who holds an elected position on a professional association could serve on the Athletic Trainer Advisory Committee to the State Board of Physicians.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 3, 2015
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