

Department of Legislative Services
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 30 (Senator Conway)
Education, Health, and Environmental Affairs

Maryland Anesthesiologists Assistants Act

This bill requires the State Board of Physicians (MBP) to license anesthesiologist assistants and regulate the practice of anesthesia care by anesthesiologist assistants. The bill also establishes an Anesthesiologist Assistants Advisory Committee within MBP.

Fiscal Summary

State Effect: Special fund expenditures for MBP increase by at least \$31,100 in FY 2017 to establish a licensure program for anesthesiologist assistants; special fund revenues increase beginning in FY 2018 from new licensing fee revenues (assumed to be sufficient to cover estimated expenditures) and any civil fines assessed. Future year expenditures reflect elimination of contractual personnel and inflation for ongoing operating expenses. Future year special fund revenues reflect biennial renewal and growth in the number of licensees; general fund revenues may increase minimally from criminal penalties.

(in dollars)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
GF Revenue	\$0	-	-	-	-
SF Revenue	\$0	-	-	-	-
SF Expenditure	\$31,100	\$53,700	\$8,200	\$8,200	\$8,200
Net Effect	(\$31,100)	(\$53,700)	(\$8,200)	(\$8,200)	(\$8,200)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: “Practice anesthesia care” means the performance of acts in collaboration with an anesthesiologist that requires specialized knowledge, judgment, and skill related to

the administration of anesthesia. An “anesthesiologist assistant” means an individual who is licensed to perform delegated medical acts under the supervision of an anesthesiologist.

Anesthesiologist Assistant License

An individual must be licensed by MBP to practice anesthesia care as an anesthesiologist assistant in the State. This requirement does not apply to students enrolled in accredited anesthesiologist assistant education programs who perform tasks under the direct supervision of an anesthesiologist, nor does it apply to federal employees practicing as anesthesiologist assistants within the scope of their employment.

The bill specifies age, education, examination, and other requirements that an applicant must meet to be licensed. An applicant must have graduated from an accredited anesthesiologist assistant program and have passed a specified certification examination. An applicant must also have an active certification as a certified anesthesiologist assistant or other board-approved national certification.

The bill authorizes MBP to issue temporary licenses – valid for 90 days – to specified applicants pending examination results; it also specifies the process and requirements for placing a licensee on inactive status and for license reinstatement and renewal. A license may not be renewed for a term longer than two years; MBP must establish continuing education requirements as a condition of license renewal.

MBP must set reasonable fees for the issuance and renewal of licenses, review of delegation agreements, and other board services; the fees must be set so that funds generated approximate the cost of maintaining the licensure program.

Scope of Practice

An anesthesiologist assistant may only practice under a delegation agreement, executed by a supervising anesthesiologist and the anesthesiologist assistant, which limits the scope of practice to specific medical acts outlined below. Delegation agreements must include specified information, must be approved by MBP, and are valid for two years.

A licensed anesthesiologist assistant may:

- assist in developing and implementing a patient’s anesthesia care plan;
- obtain informed consent from a patient or legal guardian for a planned anesthetic intervention;
- take a patient history, perform relevant elements of a physical examination, and present a patient history to the supervising anesthesiologist;

- pretest and calibrate anesthesia delivery systems and obtain and interpret information from the systems, in consultation with an anesthesiologist;
- assist with the implementation of medically accepted monitoring techniques;
- establish airway interventions, including intubation and ventilatory support;
- administer intermittent vasoactive drugs and start and adjust vasoactive infusions;
- administer anesthetic, adjuvant, and accessory drugs;
- assist in epidural, spinal, and other regional anesthetic procedures;
- administer blood, blood products, and supportive fluids;
- assist a cardiopulmonary resuscitation team in life-threatening situations;
- participate in authorized administrative, research, and clinical teaching activities;
- document information in a patient's medical records; and
- perform other tasks for which the anesthesiologist assistant has been trained and are not otherwise prohibited by law.

A licensee may not (1) prescribe any medications or controlled substances; (2) administer drugs, medicines, devices, or therapies that the supervising anesthesiologist is not qualified or authorized to prescribe; (3) practice or attempt to practice without the supervision of a licensed anesthesiologist or in a location where the supervising anesthesiologist is not immediately available; or (4) perform any task that is not listed and approved in the delegation agreement.

An anesthesiologist assistant must clearly identify himself or herself to ensure that he or she is not mistaken or misrepresented as a physician. In addition, patients in a facility with anesthesiologist assistants must be informed that an anesthesiologist assistant will be involved in their care.

The supervising anesthesiologist is responsible for overseeing medical acts performed by the anesthesiologist assistant and is liable for any of the assistant's acts or omissions under the anesthesiologist's supervision and control. A supervising anesthesiologist may not delegate medical acts under a delegation agreement to more than four anesthesiologist assistants at one time. An alternate supervising anesthesiologist, designated by the supervising anesthesiologist, may provide direct supervision of an anesthesiologist assistant in accordance with the board-approved delegation agreement in the supervising anesthesiologist's absence.

An anesthesiologist assistant who holds a temporary license may practice under a delegation agreement that is pending board approval if (1) the supervising anesthesiologist who executed the pending agreement has been previously approved by MBP to supervise one or more anesthesiologist assistants in the practice setting for the same scope of practice in the pending agreement and (2) the anesthesiologist assistant has been previously

approved for the same scope of practice in the pending delegation agreement in a different practice setting. If MBP modifies or denies the pending agreement, MBP must notify the supervising anesthesiologist and anesthesiologist assistant of the cause for modification or disapproval. Upon receipt of notice of a denial, the anesthesiologist assistant must stop practicing immediately.

Anesthesiologist Assistants Advisory Committee

The committee consists of seven members appointed by MBP: three licensed anesthesiologist assistants; one licensed physician who is a member of MBP; one licensed physician who specializes in anesthesiology; one licensed physician who specializes in anesthesiology and is acting as a board-approved supervising anesthesiologist; and one consumer member. Committee members serve staggered three-year terms and may not serve more than two consecutive terms. (For the initial committee, MBP must substitute four licensed physicians who specialize in anesthesiology in place of the three licensed anesthesiologist assistants and the board-approved supervising anesthesiologist members. Initial memberships expire as specified in the bill.)

The committee must make recommendations to MBP regarding the practice of anesthesia care, continuing education requirements, and whether to approve applications for licensure and delegation agreements. Additionally, the committee must report any conduct of a supervising anesthesiologist or anesthesiologist assistant that warrants disciplinary action and knowledge of any unauthorized practice. The committee must submit an annual report to MBP, keep a record of its proceedings, and perform duties delegated to it by MBP. If MBP rejects or modifies any committee recommendations, it must provide a written explanation of its reasons.

Disciplinary Grounds and Reporting

The bill sets specific grounds and procedures for disciplinary action against a licensee or applicant. MBP, on the affirmative vote of a majority of a quorum of the board, may deny a license, reprimand any licensee, place any licensee on probation, or suspend or revoke a license, after providing an opportunity for a hearing.

Within five days of the termination of an anesthesiologist assistant related to a quality of care issue, the supervising anesthesiologist and the anesthesiologist assistant must report the termination to MBP. The bill also requires hospitals, related institutions, alternative health care systems, and other employers to report to MBP if an anesthesiologist assistant is limited, reduced, otherwise changed, or terminated for reasons that might be grounds for disciplinary action. The bill also describes circumstances under which a report is not required. MBP may impose a civil penalty of up to \$1,000 for failure to report; any such penalty is deposited in the general fund.

If an anesthesiologist assistant attempts, offers, or performs a medical act beyond the individual's scope of practice and inconsistent with the delegation agreement, the individual's license must be revoked.

A person who violates any provision of the bill is guilty of a misdemeanor and on conviction is subject to a fine of up to \$5,000 and/or imprisonment for up to five years. In addition, a person who practices, attempts to practice, or offers to practice as an anesthesiologist assistant without a license is subject to a civil fine, assessed by MBP and payable to the State Board of Physicians Fund, of up to \$5,000.

Program Evaluation and Termination

The bill subjects the new licensure program to periodic review under the Maryland Program Evaluation Act. A preliminary evaluation is required by December 15, 2023. If not reauthorized, the program terminates on July 1, 2026.

Current Law/Background:

State Board of Physicians

The mission of MBP is to assure quality health care in Maryland through the efficient licensure and effective discipline of health providers under its jurisdiction, by protecting and educating clients/customers and stakeholders and enforcing the Maryland Medical Practice Act. The board has regulatory authority over physicians, physician assistants, radiographers, radiation therapists, nuclear medicine technologists, radiologist assistants, respiratory care practitioners, polysomnographic technologists, athletic trainers, perfusionists, and naturopathic doctors.

Currently, the following seven advisory committees assist MBP in its oversight role: the Physician Assistant Advisory Committee; the Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Advisory Committee; the Respiratory Care Professional Standards Committee; the Polysomnography Professional Standards Committee; the Athletic Trainer Advisory Committee; the Perfusion Advisory Committee; and the Naturopathic Medicine Advisory Committee.

Nurse Anesthetists and Anesthesiologist Assistants

In Maryland, anesthetics may be administered by a qualified physician, dentist, or nurse anesthetist. A physician assistant may also administer anesthesia if authorized to do so in a delegation agreement.

According to the American Association of Nurse Anesthetists, a certified registered nurse anesthetist works in collaboration with surgeons, anesthesiologists, dentists, podiatrists, and other health care professionals to administer anesthesia care in four categories: (1) preanesthetic preparation and evaluation; (2) anesthesia induction, maintenance, and emergence; (3) postanesthesia care; and (4) perianesthetic and clinical support. In Maryland, nurse anesthetists must be licensed and authorized to practice nurse anesthesia by the State Board of Nursing.

According to the American Academy of Anesthesiologist Assistants, an anesthesiologist assistant works under the direction of a licensed anesthesiologist to implement anesthesia care plans. As of January 2015, 14 states, the District of Columbia, and Guam had licensure programs for anesthesiologist assistants. Two states, Texas and Michigan, allow anesthesiologist assistants to practice under delegated authority but do not have specific licensing schemes.

The National Commission for Certification of Anesthesiologist Assistants (NCCAA) certifies anesthesiologist assistants. According to NCCAA, the certification process involves (1) initial certification through examination; (2) registration of continuing medical education; and (3) successful completion of an examination for continued demonstration of qualifications every six years. NCCAA advises that there are currently 14 certified anesthesiologist assistants in the Maryland area.

Anesthesiologist assistant education programs are post-baccalaureate programs that typically range from 24 to 27 months. The Commission on Accreditation of Allied Health Education Programs (CAAHEP) accredits anesthesiologist assistant programs in the United States. To date, CAAHEP has accredited 10 programs. The closest accredited program is at Case Western Reserve University in Washington, DC; the class size is about 20 students, about half of whom are from Maryland.

According to CAAHEP, the responsibilities of anesthesiologist assistants and nurse anesthetists are identical; anesthesiologist assistants often work in organizations that also employ nurse anesthetists. Anesthesiology assistants usually work in larger medical facilities that perform complex procedures such as cardiac surgery, neurosurgery, transplant surgery, and trauma care.

State Expenditures: As the bill does not include a date by which anesthesiologist assistants must be licensed in order to practice in the State, it is assumed that licensure must occur as soon as possible after the bill's effective date (October 1, 2016). However, it is unlikely that MBP can appoint an advisory committee and develop and approve regulations in time to accept licensure applications in fiscal 2017. Therefore, this analysis assumes that initial licensure begins in fiscal 2018.

MBP advises that it does not know how many individuals will apply for licensure under the bill. However, given that there are currently 5 staff members handling the administration of 11 allied health professions, MBP advises that existing staff cannot absorb another program. MBP advises that a permanent, part-time (50%) administrative officer is needed to handle licensure and staff the advisory committee, and that a permanent, part-time (50%) database specialist is needed to make necessary modifications to MBP's licensing system.

According to NCCAA, there are currently 14 certified anesthesiologist assistants in the Maryland area. This analysis assumes that each of these 14 anesthesiologist assistants will seek initial licensure in fiscal 2018 and a smaller number will seek initial licensure in each fiscal year thereafter, with licensees renewing on a biennial basis. Thus, the Department of Legislative Services (DLS) advises that, due to the small number of anticipated licensees, the added responsibilities imposed by the bill can likely be performed by contractual employees hired only to establish and initially implement the licensing program. Once the program is operational, existing MBP staff can likely absorb renewals, approval of delegation agreements, and the anticipated small number of ongoing new license applications. If more applicants seek licensure than anticipated, MBP may need to hire staff on a permanent basis.

Based on these assumptions, special fund expenditures for MBP increase by at least \$31,067 in fiscal 2017, which accounts for the bill's October 1, 2016 effective date. This estimate reflects the cost of hiring one part-time (50%) contractual administrative officer to help develop regulations and recruit members for and staff the advisory committee, as well as per diem and mileage reimbursement for seven advisory committee members. (The board advises that, as for board members, it pays all advisory committee members a per diem and mileage reimbursement.) It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. Per diem and mileage reimbursement are estimated at \$1,288 per meeting, with meetings occurring on a monthly basis from November through June 2017, and every other month thereafter.

Contractual Position	0.5
Salary and Fringe Benefits	\$15,948
Per Diems and Mileage Reimbursement	10,304
One-time Start-up Costs	4,363
Ongoing Operating Expenses	<u>452</u>
Total FY 2017 State Expenditures	\$31,067

MBP expenditures increase in fiscal 2018 to hire one part-time (25%) contractual database specialist to make appropriate one-time modifications to MBP's licensing system; once the system has been modified for initial licensure in fiscal 2018, this position is no longer necessary.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

Future year expenditures reflect elimination of both contractual positions at the end of fiscal 2018, as well as annual increases in ongoing operating expenses, including supplies, and per diems and mileage for advisory committee members.

State Revenues: As MBP is special funded, it must set *reasonable* fees for the issuance and renewal of licenses and other services it provides to anesthesiologist assistants. Licensure fees must be set so as to *approximate* the cost of maintaining the licensure program. This analysis assumes that MBP will set fees to ensure sufficient special fund revenues to approximately cover the cost of the licensure program. In fiscal 2018, it is assumed that the biennial license fee will be set to cover the cost of the licensure program for fiscal 2017 *and* 2018, as staff will be brought on to establish the licensure program in fiscal 2017.

Assuming 14 initial applicants for licensure, and based on the estimated expenditures stated above, initial biennial license fees may be as much as \$6,051 in fiscal 2018. It is unclear how many new applicants may seek licensure per year. *For illustrative purposes only*, if 10 new applicants seek licensure annually, biennial license fees could decline to approximately \$683 in fiscal 2019 and 2020.

Nevertheless, DLS notes that revenues may not be sufficient to cover projected costs and the board may need to cross subsidize. Actual license fees and revenues will depend on the number of anesthesiologist assistants that seek licensure under the bill, as well as the actual costs incurred by MBP. For example, individuals from Washington, DC, may seek licensure in Maryland under the bill; depending on the volume of applications received, MBP may incur increased costs, and fees will need to be adjusted accordingly.

Additional Comments: The bill specifies that the new advisory committee and licensure program are subject to program evaluation and must undergo preliminary evaluation in 2023 – three years before termination. However, MBP and all other advisory committees under its purview are subject to direct full evaluation, with a full evaluation being conducted in 2016.

Additional Information

Prior Introductions: SB 798 of 2009, a similar bill, received a hearing in the Senate Education, Health, and Environmental Affairs Committee and was referred to interim study. Its cross file, HB 1161, was withdrawn without a hearing in the House Health and Government Operations Committee.

Cross File: None.

Information Source(s): American Association of Nurse Anesthetists, American Academy of Anesthesiologist Assistants, Case Western Reserve University (Washington, DC), Commission on Accreditation of Allied Health Education Programs, National Commission for Certification of Anesthesiologist Assistants, Department of Health and Mental Hygiene, Department of Legislative Services

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