

**Department of Legislative Services**  
 Maryland General Assembly  
 2017 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

Senate Bill 988

(Senator Nathan-Pulliam, *et al.*)

Education, Health, and Environmental Affairs

Health and Government Operations

**Health Occupations - Maryland Community Health Worker Act**

This bill establishes the State Board of Community Health Workers within the Department of Health and Mental Hygiene (DHMH) and *authorizes* an individual to be certified by the board to practice as a community health worker (CHW) in the State. The bill also establishes the State Board of Community Health Workers Fund.

Uncodified language sets the application fee for an initial certification to practice as a CHW at \$75 effective October 1, 2017, through December 31, 2019. The board must set the application fee in accordance with specified requirements on or after January 1, 2020. Additional uncodified language specifies that it is the intent of the General Assembly that general funds be used to support the board in fiscal 2018. When special funds become available, the general fund must be reimbursed for start-up costs.

**Fiscal Summary**

**State Effect:** General fund expenditures increase by at least \$126,400 in FY 2018 to initially administer the board; expenditures increase in FY 2019 for additional personnel and to reflect annualization. It is assumed that general fund expenditures will be required to support the board in all years, as discussed below. Special fund revenues increase by an indeterminate amount beginning in FY 2019 from new certification fee revenues.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
SF Revenue	\$0	-	-	-	-
GF Expenditure	\$126,400	\$222,100	\$224,100	\$231,000	\$238,300
SF Expenditure	\$0	-	-	-	-
Net Effect	(\$126,400)	(\$222,100)	(\$224,100)	(\$231,000)	(\$238,300)

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

**Local Effect:** The bill’s criminal penalty provisions are not expected to materially affect local government finances or operations.

**Small Business Effect:** Minimal.

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## Analysis

**Bill Summary:** “Community health worker” means a frontline public health worker who (1) is a trusted member of, or has an unusually close understanding of the community served; (2) serves as a liaison, link, or intermediary between health and social services and the community to facilitate access to services and improve the quality and cultural competence of service delivery; (3) builds individual and community capacity by increasing health knowledge and self-sufficiency through a range of activities, including outreach, community education, informal counseling, social support, and advocacy; and (4) is part of a health care team that may include physicians, nurses, psychiatrists, social workers, and other health care professionals who work closely with a CHW to provide comprehensive and coordinated care to an individual.

*The State Board of Community Health Workers:* The purpose of the board is to promote and oversee CHWs in carrying out their roles, which include:

- serving as a liaison between communities, individuals, and health care organizations;
- providing evidence-based health guidance and assistance to community residents;
- enhancing community residents’ ability to communicate with health care providers;
- providing culturally and linguistically appropriate health education;
- advocating for individual and community health equity;
- providing nonclinical support, follow-up, and education in community settings;
- identifying and addressing issues that create barriers to care for specific individuals;
- providing referral and follow-up services or other coordination of human services;
- proactively identifying and referring individuals in health and human services programs; and
- integrating with a patient’s care team to support progress in the patient’s care plan and overall patient wellness.

The role of a CHW *does not* include providing clinical services, including (1) diagnosing health care conditions; (2) providing health care treatment services; and (3) making referrals to health care providers outside of a CHW’s health care team and without the supervision of a licensed health care provider.

The board consists of 15 members, including the Secretary of Health and Mental Hygiene (or the Secretary's designee) who must serve as the chair. The remaining 14 members, including 6 CHWs, are appointed by the Governor with the advice and consent of the Senate. Board members serve staggered four-year terms and are entitled to reimbursement for expenses. The board may employ staff in accordance with its budget. The board must adopt regulations to carry out the bill, including regulations that establish (1) core competencies for CHWs; (2) standards and requirements for approval of CHW experience and training; and (3) continuing education requirements.

*Application for Certification and Renewal:* To qualify for certification, an applicant must be of good moral character, have successfully completed 160 hours of training, and meet any other requirements established by the board. The board must waive the training requirement if, on or before September 30, 2019, an applicant demonstrates successful completion of 80 hours of training and 4,000 hours of paid or unpaid CHW experience in the four-year period immediately before the application date. A certification is issued for a two-year term.

To apply for certification as a CHW, an applicant must (1) submit an application to the board; (2) pay an application fee; and (3) submit to a criminal history records check (CHRC). The board is required to issue a certificate to any applicant who meets the requirements. The bill also specifies procedures for biennial renewal, inactive status, nonrenewed status, and reactivation of a certificate. Nonrenewed status applies to a CHW who failed to renew the certificate for any reason, whereas inactive status is for a CHW who submits a written request. In both cases, the maximum period for nonrenewed or inactive status is four years and the requirements for reactivation are the same.

*Reciprocity:* The board may waive any of the qualifications for certification for an applicant who (1) pays the application fee; (2) holds a current certification or similar credential in another state if the board determines that the state has requirements that are at least equivalent to the requirements of this State and meet the practice requirements established under regulations adopted by the board; and (3) submits to a CHRC.

*Criminal History Records Check:* An applicant must apply to the Central Repository for a State and national CHRC. Information obtained from the Central Repository is confidential, may not be disseminated, and may only be used for the licensing purpose authorized by the bill. The subject of a CHRC may contest the contents of the criminal history record information (CHRI). If CHRI is reported to the Central Repository after the date of the initial CHRC, the Central Repository must provide the board with the updated information.

On receipt of CHRI of an applicant, in determining whether to grant a certification, the board must consider:

- the age at which the crime was committed;
- the nature of the crime;
- the circumstances surrounding the crime;
- the length of time that has passed since the crime;
- subsequent work history;
- employment and character references; and
- any other evidence that demonstrates whether the applicant poses a threat to the public health or safety.

Unless otherwise required, a renewal applicant who previously completed a CHRC as part of the board's application process does not have to submit to a subsequent CHRC for renewal of a certification.

*Disciplinary Action:* The board may deny any applicant certification, reprimand any certificate holder, place any individual who is certified on probation, or suspend or revoke a certificate, if the applicant or certificate holder engages in any of 13 specified disciplinary grounds. Any person aggrieved by a final decision of the board in a contested case, as defined under the State Government Article, is entitled to judicial review. The board must give an applicant or certificate holder an opportunity for a hearing. The board may reinstate the certificate of an individual whose certificate has been revoked.

The board may issue subpoenas and administer oaths in connection with any investigation. On petition of the board, a court may punish a person for contempt of court if the person disobeys a subpoena from the board or an order by the board to take an oath, testify, or answer a question.

*Prohibited Acts and Penalties:* A person who violates any of the bill's provisions is guilty of a misdemeanor and on conviction is subject to, for a first offense, a fine of up to \$2,000 or imprisonment for up to six months, or for a subsequent offense, a fine of up to \$6,000 or imprisonment for up to one year.

*State Board of Community Health Workers Fund:* On or after January 1, 2020, the board must set reasonable fees for the issuance and renewal of certificates and its other services. The fees charged must be set to approximate the cost of maintaining the board. The fund is a special nonlapsing fund and is not subject to the State Finance and Procurement Article. The fund must be used to cover the direct and indirect costs of fulfilling the statutory and regulatory duties of the board. The fund comprises fees collected by the board, and no other State money may be used to support the fund.

*Termination and Evaluation Provisions:* The bill subjects the new certification program to periodic review under the Maryland Program Evaluation Act, as with other health occupations boards, establishing a termination date of July 1, 2027, with a preliminary evaluation to be conducted in 2024.

**Current Law/Background:** As required by Chapters 181 and 259 of 2014, DHMH and the Maryland Insurance Administration established the Workgroup on Workforce Development for Community Health Workers to study and make recommendations regarding workforce development for CHWs in Maryland. The workgroup comprised practicing CHWs and professionals with knowledge of and experience in the provision of CHW services.

The workgroup's [final report](#), dated June 2015, advised that the CHW is a critical component of health systems, especially where highly trained physicians and nurses are in short supply. The report noted that Maryland already has many CHW programs in place, with an estimated 1,430 CHWs working in the State in 2013 in a wide variety of programs from community-based to hospital-based to primary care team-based. However, the report noted that there has been a lack of standardization for training.

The workgroup defined and described the roles of a CHW in terms that closely track the language in this bill and recommended that certification be considered to meet future professional validation. The workgroup recommended establishing an oversight body to provide input to the legislature and oversee CHWs, and it suggested that the body approve CHW curriculums and CHW training programs. The workgroup advised that grandfathering should be permitted for individuals with 80 hours of training and 4,000 hours of CHW experience, as in the bill, and that the opportunity for grandfathering should end two years after the establishment of a State certification program.

DHMH advises that approximately 13 states currently license CHWs. Three states have third-party certification bodies, and one state has a community health worker advisory board.

**State Fiscal Effect:** Although the bill does not specify a date by which the board must begin to issue certifications, this analysis assumes that expenditures begin October 1, 2017, concurrent with the bill's effective date, and that the board begins issuing certifications on July 1, 2018. Per the bill, general funds are intended to be used to cover board expenses in fiscal 2018, with special fund expenditures beginning in fiscal 2019. Although the board is required to reimburse the general fund for these start-up costs once special funds are available, this estimate does not include a specific repayment timeline and advises that special fund revenues are likely insufficient to support repayment for the foreseeable future.

DHMH advises that approximately 1,000 individuals are likely to seek certification as CHWs under the bill. However, the Department of Legislative Services advises that the number of individuals who seek certification under the bill cannot be reliably estimated at this time. Specifically, as the bill does not *require* an individual to be certified in order to work as a CHW in the State, it is unclear whether a significant number of individuals will seek certification. As a result, this analysis does not include an estimate of special fund revenues. Additionally, as the bill sets the application fee for certification at \$75 through December 31, 2019, special fund revenues alone are assumed to be insufficient to support board activities. *For illustrative purposes only*, if 500 individuals seek certification in fiscal 2019, special fund revenues increase by \$37,500. This assumes that the \$75 application fee established in the bill is the only fee to become certified, and that no other fees are assessed.

General fund expenditures are estimated to increase by \$126,368 in fiscal 2018 to allow the board to prepare for certification the following year. This estimate includes the cost for one full-time program manager to establish the certification process and develop regulations, as well as one-time start-up costs and ongoing operating expenses, including DHMH’s indirect cost assessment and the board’s contribution for the staff members that several other health occupations boards and commission share (*i.e.*, legal, fiscal, and information technology support). This estimate also includes approximately \$60,000 on an annualized basis in contractual services for additional legal services, initially related to promulgating regulations and establishing the new regulatory framework. DHMH advises that shared costs for the State Board of Examiners in Optometry, a board that oversees approximately 900 licensees, totaled \$15,847 in fiscal 2017. Accordingly, shared costs for the new board are estimated to be \$11,885 in fiscal 2018, which takes into account the bill’s October 1, 2017 effective date.

Certification is assumed to begin July 1, 2018. Thus, expenditures increase by approximately \$222,149 in fiscal 2019 to reflect the cost of hiring one additional full-time office secretary to assist with the certification process. The estimate includes additional one-time start-up costs for the additional employee. Fiscal 2019 expenditures are assumed to be a combination of general and special funds as special fund revenues are insufficient to cover the board’s anticipated expenses.

	<b>General Funds</b>	<b>General/Special Funds</b>
	<b><u>FY 2018</u></b>	<b><u>FY 2019</u></b>
New Permanent Positions	1	1
Salaries and Fringe Benefits	\$63,624	\$139,412
Shared Support Staff and Indirect Costs	11,885	15,847
Repayment of General Funds	N/A	-
One-time Start-up Costs	4,640	4,640
Other Operating Expenses	<u>46,219</u>	<u>62,250</u>
<b>Total Board Expenditures</b>	<b>\$126,368</b>	<b>\$222,149</b>

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses. To the extent certification activity is low, the additional office secretary may not be required, and board expenditures may be reduced. If certification activity is greater than anticipated, general fund expenditures may increase to hire additional personnel, as it is unlikely that special fund revenues will be sufficient to support such activities.

Under the bill, the board is authorized to set *reasonable* fees for certification on or after January 1, 2020; likewise, fees charged must be set to approximate the cost of maintaining the board. Because certification is for a two-year period, fees charged must be sufficient to cover two years of expenditures and should reflect expenditures when the board is fully staffed. *For illustrative purposes only*, based on DHMH's assumption that 1,000 individuals will seek CHW certification, certification fees need to be approximately \$300 *per year* (or \$600 paid for the two-year term) to cover the expenditures of the board.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 1113 (Delegate Lam, *et al.*) - Health and Government Operations.

**Information Source(s):** Maryland Department of Aging; Maryland Department of Disabilities; Department of Health and Mental Hygiene; Maryland Association of County Health Officers; Department of Public Safety and Correctional Services; Department of Human Resources; Department of Legislative Services

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