

**Department of Legislative Services**  
Maryland General Assembly  
2018 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 790 (Delegate Waldstreicher)  
Rules and Executive Nominations

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**State Government - Maryland Program Evaluation Act - Periodic Full Evaluations**

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This bill expands the required elements that must be included in a Department of Legislative Services (DLS) report on a preliminary evaluation. The bill also requires DLS to conduct a full evaluation of specified entities subject to the Maryland Program Evaluation Act on a specified schedule.

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**Fiscal Summary**

**State Effect:** The bill likely has no direct or material effect on State finances for the five-year period covered by this analysis, as discussed below. However, to the extent that staffing requirements for preliminary evaluations increase, DLS's capacity to carry out other assignments during legislative interims is reduced.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** A report on a preliminary evaluation must include a summary of (1) how issues identified in the most recent full evaluation have been addressed and (2) input from consumers and citizens impacted by the governmental activity or unit, including invited input from consumers who have registered complaints that relate to the governmental activity or with the unit.

If DLS conducts a full evaluation of an entity that has undergone a preliminary evaluation for which the Legislative Policy Committee (LPC) determines a full evaluation is necessary, the *next* full evaluation of the entity must be conducted (1) if the preliminary evaluation recommends that a full evaluation be conducted or (2) if the entity has been waived from a full evaluation based on preliminary evaluations two or more times since the last full evaluation.

The bill also establishes a schedule, beginning in 2043, under which DLS must conduct a full evaluation of most entities subject to the Maryland Program Evaluation Act in a year specified in the bill *and* every 30 years thereafter (or more frequently). A full evaluation required by the bill must address the same issues as a full evaluation that is conducted without a preliminary evaluation under current law.

### **Current Law/Background:**

#### *Sunset Review – Generally*

Approximately 70 regulatory entities and activities are currently subject to periodic evaluation under the Maryland Program Evaluation Act. The Act establishes a process better known as “sunset review” as most entities evaluated are also subject to termination.

With the exception of five health occupations boards (Dental, Morticians and Funeral Directors, Nursing, Pharmacy, and Physicians) that undergo direct full evaluations, the sunset review process traditionally begins with a preliminary evaluation conducted by DLS on behalf of LPC. A report on a preliminary evaluation must include a summary of:

- significant legislative and regulatory changes since the last evaluation;
- licensing and enforcement activities since the last evaluation;
- registered complaints, complaint outcomes, and disciplinary activities since the last evaluation; and
- revenues and expenditures for the most recent six-year period, including indirect costs.

If DLS concludes as a result of the preliminary evaluation that the entity is not effectively or efficiently carrying out its statutory responsibilities, DLS may recommend to LPC that a more thorough (full) evaluation be conducted. Otherwise, DLS typically recommends that a full evaluation be waived and the entity be reauthorized for up to 10 years. This process is designed to avoid subjecting entities that are generally carrying out their responsibilities in an effective manner from the administrative burden of participating in a full evaluation. LPC must approve or disapprove of the DLS recommendations by the

tenth day of the regular session of the General Assembly immediately following the evaluation year.

If LPC decides to waive an entity from full evaluation, legislation to reauthorize the entity typically is enacted. Otherwise, a full evaluation usually is undertaken the following year. LPC also may require DLS to conduct a full evaluation even if DLS has recommended that an entity be waived from full evaluation.

Additional information on the entities subject to the Maryland Program Evaluation Act can be found in **Appendix – Entities Subject to the Maryland Program Evaluation Act.**

### *Contents of Evaluations*

Following the completion of a preliminary evaluation, DLS must consider recommending a full evaluation if problems are identified regarding:

- implementation of the governmental activity or unit's mandate or statutory requirements;
- management or disposition of licensing, enforcement, complaint, or disciplinary activities;
- finances or resources; or
- other issues as identified by the General Assembly or DLS.

The contents of a full evaluation report depend on whether or not the unit subject to evaluation has been through a preliminary evaluation or if it is one of the five health occupations boards subject to a direct full evaluation. If a preliminary evaluation has been conducted, a full evaluation report must focus on the issues identified in the preliminary evaluation. If a preliminary evaluation has not been conducted, a full evaluation report must address any issues raised in the previous sunset evaluation conducted by DLS and the governmental activity's or unit's efficiency, effectiveness, role in protecting consumers, sufficiency of resources, and accomplishment of legislative objectives.

### *Recent and Upcoming Evaluations*

Over the past four years, DLS conducted four full evaluations, three follow ups or special reviews, and eight preliminary evaluations. Of these preliminary evaluations, four recommended waiver from full evaluation, two resulted in an additional special evaluation, one resulted in a full evaluation, and one recommended allowing the entity (and requirement for evaluation) to terminate. DLS sunset evaluation activities for calendar 2014 through 2017 are shown in **Exhibit 1.**

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**Exhibit 1**  
**Sunset Evaluation Activities Conducted by the Department of Legislative Services**  
**Calendar 2014–2017**

<u>Year</u>	<u>Entity</u>	<u>Type</u>	<u>Recommendation Regarding Further Evaluation</u>
2014	Nursing Home Administrators	Preliminary	Waive from full evaluation
2015	Licensing and registration of security systems agencies and technicians	Follow-Up	Waive from full evaluation
	Health Services Cost Review Commission	Preliminary	Special review the following year
	Maryland Health Care Commission	Preliminary	Special review the following year
	State Board of Environmental Health Specialists	Full	Repeal board
2016	State Board of Professional Counselors and Therapists	Preliminary	Full evaluation the following year
	Maryland Insurance Administration	Preliminary	Waive from full evaluation and repeal requirement for evaluation
	Elevator Safety Review Board	Preliminary	Waive from full evaluation
	Licensure of mold remediation services	Preliminary	Repeal requirement for evaluation and allow to terminate as never implemented
	Health Services Cost Review Commission	Special Review	Conduct special review in 2019
	Maryland Health Care Commission	Special Review	Conduct special review in 2019
	State Board of Physicians (and related advisory committees)	Direct Full	Extend termination date by 5 years
	State Board of Morticians and Funeral Directors	Direct Full	Extend termination date by 10 years
2017	State Board of Law Examiners	Preliminary	Waive from full evaluation
	State Board of Professional Counselors and Therapists	Full	Extend termination date by 2 years and require specified progress reports

Source: Department of Legislative Services

During the 2018 interim, DLS will conduct a full evaluation of the Prescription Drug Monitoring Program and preliminary evaluations of the:

- State Athletic Commission;
- State Board of Barbers and State Board of Cosmetologists (joint);
- State Board of Veterinary Medical Examiners;
- State Board of Waterworks and Waste Systems Operators;
- State Board of Well Drillers; and
- licensing and regulation of security systems technicians.

**State Fiscal Effect:** A preliminary evaluation typically takes at least 100 hours and up to 500 hours to complete. Under the bill, beginning in fiscal 2019, DLS must include additional items in each preliminary evaluation, including invited input from consumers who have registered complaints with the governmental activity or unit. DLS estimates that gathering such input may double the amount of hours required to complete each preliminary report. Staff would need to work with agencies to identify complainants and obtain contact information, as well as prepare, disseminate, and evaluate a survey to solicit input. While DLS does not require additional staff to complete these duties, current staff would need to be redirected from other activities to fulfill this requirement. DLS notes that, particularly for health occupations boards, many complaints are of a sensitive nature and are made confidentially.

Each full evaluation conducted by DLS typically takes at least 650 hours and often more than 1,200 hours to complete, depending on the size of the entity and complexity of issues involved. The bill's provisions relating to mandated full evaluations increase the number of full evaluations that must be conducted beyond those that would be required under current law. Also, entities that have been waived twice in a row from full evaluations may, in some instances, be required to undergo full evaluations more often than they otherwise would, based on the schedule in the bill. Thus, beginning in fiscal 2043, DLS may require additional staff to complete the additional mandated full evaluations.

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### **Additional Information**

**Prior Introductions:** A similar bill, HB 1377 of 2017, received an unfavorable report from the House Rules and Executive Nominations Committee.

**Cross File:** None.

**Information Source(s):** Maryland Department of Agriculture; Maryland Department of the Environment; Maryland Department of Health; Department of Labor, Licensing, and Regulation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 16, 2018  
nb/mcr

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## Appendix – Entities Subject to the Maryland Program Evaluation Act

<b>Entity</b>	<b>Termination Date<sup>1</sup></b>	<b>Most Recent Evaluation</b>	<b>Next Evaluation</b>	<b>Total Evaluations Conducted<sup>2</sup></b>
Acupuncture Board, State	2025 (HO, § 1A-502)	2012	2022	2
Amusement Ride Safety, State Advisory Board	2024 (BR, § 3-315)	2012	2021	6
Apprenticeship and Training Council	2024 (LE, § 11-402)	2012	2021	6
Architects, State Board of	2023 (BOP, § 3-702)	2010	2020	4
Athletic Commission, State	2021 (BR, § 4-208)	2008	2018	6
Audiologists, Hearing Aid Dispensers, and Speech Language Pathologists, State Board of Examiners for	2026 (HO, § 2-502)	2013	2023	5
Barbers, State Board of	2021 (BOP, § 4-702)	2009	2018	7
Boiler Rules, State Board of	2024 (PS, § 12-919)	2012	2021	6
Cemetery Oversight, Office of	2023 (BR, § 5-1002)	2011	2020	4
Chiropractic Examiners, State Board of	2022 (HO, § 3-602)	2009	2019	5
Collection Agency Licensing Board, State	2022 (BR, § 7-502)	2010	2019	6
Cosmetologists, State Board of	2021 (BOP, § 5-702)	2009	2018	7
Counselors and Therapists, State Board of Professional (including Behavior Analyst Advisory Committee)	2019 (HO, § 17-702)	2017	TBD	7
Dental Examiners, State Board of	2021 (HO, § 4-702)	2009	2019	8
Dietetic Practice, State Board of	2025 (HO, § 5-502)	2012	2022	5
Electricians, State Board of Master	2023 (BOP, § 6-702)	2010	2020	7
Elevator Safety Review Board	2029 (PS, § 12-842)	2016	2026	3
Engineers, State Board for Professional	2023 (BOP, § 14-602)	2010	2020	5
Engineers, State Board for Stationary	2024 (BOP, § 6.5-502)	2012	2022	6
Environmental Health Specialists, State Board of	2027 (HO, § 21-502)	2014	2023	9
Financial Regulation, Office of the Commissioner of	2022 (FI, § 2-401)	2010	2019	7
Foresters, State Board of	2025 (BOP, § 7-602)	2012	2022	5
Health Care Commission, Maryland	None	2016	2019	7

<b>Entity</b>	<b>Termination Date<sup>1</sup></b>	<b>Most Recent Evaluation</b>	<b>Next Evaluation</b>	<b>Total Evaluations Conducted<sup>2</sup></b>
Health Services Cost Review Commission, State	None	2016	2019	8
Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors, State Board of	2023 (BR, § 9A-602)	2010	2020	2
Home Improvement Commission, Maryland	2022 (BR, § 8-802)	2010	2019	7
Horse Industry Board, Maryland	2026 (AG, § 2-719)	2013	2023	7
Individual Tax Preparers, State Board of	2026 (BOP, § 21-502)	2013	2023	1
Interior Designers, State Board of Certified	2024 (BOP, § 8-602)	2011	2021	3
Labor and Industry, Division of	None	2012	2021	6
Land Surveyors, State Board for Professional	2024 (BOP, § 15-702)	2009	2021	5
Landscape Architects, State Board of Examiners of	2024 (BOP, § 9-702)	2009	2021	5
Law Examiners, State Board of	2020* (BOP, § 10-218)	2017	TBD	7
Massage Therapy Examiners, State Board of	2026 (HO, § 6-602)	***	2023	***
Morticians and Funeral Directors, State Board of	2028 (HO, § 7-702)	2016	2026	9
Nursing, State Board of (including Electrology Practice Committee and Direct-Entry Midwife Advisory Committee)	2023 (HO, § 8-802)	2011	2021	7
Nursing Home Administrators, State Board of Examiners of	2027 (HO, § 9-502)	2014	2024	7
Occupational Safety and Health Advisory Board	2024 (LE, § 5-306)	2012	2021	6
Occupational Therapy Practice, State Board of	2025 (HO, § 10-502)	2012	2022	4
Optometry, State Board of Examiners	2023 (HO, § 11-602)	2009	2020	5
Pharmacy, State Board of	2023 (HO, § 12-802)	2011	2021	7
Physical Therapy Examiners, State Board of	2022 (HO, § 13-502)	2009	2019	5
Physicians, State Board of (including Athletic Training Advisory Committee; Perfusion Advisory Committee; Naturopathic Medicine Advisory Committee; Physician Assistant Advisory Committee; Polysomnography Professional Standards Committee; Radiation Therapy, Radiography, Nuclear Medicine Technology Advisory, and Radiology Assistance Committee; and Respiratory Care Professional Standards Committee)	2023 (HO, § 14-702)	2016	2021	10

<b>Entity</b>	<b>Termination Date<sup>1</sup></b>	<b>Most Recent Evaluation</b>	<b>Next Evaluation</b>	<b>Total Evaluations Conducted<sup>2</sup></b>
Pilots, State Board of	2022 (BOP, § 11-802)	2009	2019	6
Plumbing, State Board of	2023 (BOP, § 12-702)	2009	2020	5
Podiatric Medical Examiners, State Board of	2022 (HO, § 16-602)	2010	2019	6
Prescription Drug Monitoring Program	2019 (HG, § 21-2A-10)	2013	2018	1
Psychologists, State Board of Examiners of	2023 (HO, § 18-502)	2010	2020	6
Public Accountancy, State Board of	2025 (BOP, § 2-702)	2012	2022	4
Racing Commission, State (including Maryland Bred Race Fund Advisory Committee and Standardbred Race Fund Advisory Committee, Maryland)	2024 (BR, § 11-1102)	2013	2021	7
Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors, State Commission of	2023 (BOP, § 16-802)	2011	2020	4
Real Estate Commission, State	2022 (BOP, § 17-702)	2010	2019	7
Residential Child Care Program Professionals, State Board for Certification of	2024 (HO, § 20-502)	2011	2021	1
Security Systems Technicians, Licensing and Regulation of	2021 (BOP, § 18-701)	2013	2018	2
Social Work Examiners, State Board of	2024 (HO, § 19-502)	2011	2021	6
Veterinary Medical Examiners, State Board of	2021 (AG, § 2-316)	2008	2018	5
Waterworks and Waste Systems Operators, State Board of	2021 (EN, § 12-602)	2009	2018	7
Well Drillers, State Board of	2021 (EN, § 13-602)	2008	2018	5

TBD = The date of the next review is to be determined, pending legislation.

<sup>1</sup> All entities are subject to termination on July 1 of the year listed.

<sup>2</sup> Total evaluations conducted includes preliminary evaluations, full evaluations, and status/update assessments.

<sup>3</sup> Legislation is currently pending in the 2018 session to extend the termination date of these entities.

\*\*\* The State Board of Massage Therapy Examiners was established as a separate board from the former State Board of Chiropractic and Massage Therapy Examiners under Chapter 739 of 2016.

Source: Department of Legislative Services