

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 108

(Chair, Finance Committee)(By Request - Departmental - Health)

Finance

Health and Government Operations

Regulation of Health Care Programs, Medical Laboratories, Tissue Banks, and Health Care Facilities - Revisions

This departmental bill repeals (1) specified application and renewal fees and (2) requirements for the renewal of a license or permit (once an initial license or permit has been approved) for specified providers regulated by the Office of Health Care Quality (OHCQ). The bill effectively authorizes OHCQ to issue nonexpiring licenses to specified provider types and eliminate all related licensing fees. Mandated periodic survey and reporting requirements are unchanged. **The bill takes effect July 1, 2018.**

Fiscal Summary

State Effect: General fund revenues decrease by an estimated \$989,800 annually beginning in FY 2019 from the elimination of various fees. Any impact on OHCQ expenditures is anticipated to be minimal.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
GF Revenue	(\$989,800)	(\$989,800)	(\$989,800)	(\$989,800)	(\$989,800)
Expenditure	0	0	0	0	0
Net Effect	(\$989,800)	(\$989,800)	(\$989,800)	(\$989,800)	(\$989,800)

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

Local Effect: The bill is not anticipated to impact local government operations or finances.

Small Business Effect: The Maryland Department of Health (MDH) has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services (DLS) generally concurs with this assessment, as discussed below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary/Current Law:

License and Permit Renewal Requirements

The bill repeals requirements that (1) the Secretary of Health establish regulations governing the renewal of a license or permit and (2) specified providers renew a license or permit. The bill eliminates renewal requirements for the provider types shown in **Appendix 1**.

License and Permit Fees

The bill repeals provisions of law that (1) require the Secretary of Health to set or charge fees related to the licensing or permitting of specified providers; (2) require specified providers to pay fees for licenses or permits; and (3) establish specified fees. OHCQ advises that the bill eliminates, or enables OHCQ through regulation to eliminate, application and renewal fees for the provider types shown in **Appendix 2**.

Nursing Homes

The bill requires a person acquiring a nursing home to notify MDH in writing of the acquisition or change in operator at the same time as a specified notice is filed with the Maryland Health Care Commission. A nursing home must notify MDH of any other changes to the list of individuals with an ownership interest in a nursing home and any management company, landlord, or other business entity that will operate or contract with the applicant to manage the nursing home within 30 days after the effective date of the change. As the ability to deny a renewal application is repealed, the bill explicitly authorizes the Secretary of Health to revoke the license of a nursing home.

Assisted Living Programs

The bill authorizes the Secretary of Health to issue a probationary assisted living program for a *period of time determined by the Secretary in regulations*, rather than for a period of less than two years.

Background: According to OHCQ, the repeal of renewal requirements impacts 18,014 providers, and the bill's fee reduction provisions impact 4,136 providers.

MDH advises that the renewal process generally consists of a paper application and does not necessarily represent or inform the quality of services provided by a licensee. Further, because renewal cycles are not linked to mandatory periodic survey requirements, the

license renewal process does little to audit the licensee's performance. As a result, license renewals can be discontinued without endangering the public. MDH further notes that discontinuing license renewals will decrease OHCQ's administrative burden, allowing for more timely completion of mandated surveys and investigations.

MDH indicates that collecting and processing fees requires a significant amount of staff time and, should an application or renewal fee be set to \$0 or eliminated, the administrative burdens attached to collecting and processing fees would be eliminated. MDH advises that all fees accrue to the general fund; no portion is retained by MDH or OHCQ.

In recent years, the Administration has reduced or eliminated certain health-related licensing and permitting fees through regulatory changes. In August 2016, licensure fees for 13 categories of health care providers regulated by OHCQ were eliminated (set to \$0), while licensing fees for freestanding medical facilities and assisted living facilities were substantially reduced.

Chapter 772 of 2017 repealed the requirement that MDH adopt regulations requiring the Secretary of Health to *charge* fees for the issuance and renewal of assisted living facility licenses. Instead, MDH must adopt regulations that *establish* the application fee to be paid by an applicant for an assisted living program license. In the fiscal and policy note for Chapter 772, DLS assumed that OHCQ would eliminate the fee by establishing an application fee of \$0, similar to 13 other OHCQ-regulated providers.

State Fiscal Effect: General fund revenues decrease by an estimated \$989,760 annually beginning in fiscal 2019, which reflects the bill's July 1, 2018 effective date. This estimate assumes that MDH eliminates all fees or establishes a fee of \$0, similar to the 13 other OHCQ-regulated providers whose fees were eliminated in 2016. This reflects the average, annualized decrease in license/permit fee revenues and assumes OHCQ issues the same number and type of licenses/permits in future years as it did as of July 1, 2016 (the date of the most recent provider survey). The estimate does not account for growth or attrition. For those licenses/permits that are issued on a multi-year basis, the estimated impact represents the proposed decrease in fee revenue multiplied by the number of providers licensed/permitted as of July 1, 2016, divided by the number of years in each license/permit term. DLS notes that the elimination of fees for licenses/permits issued on a multi-year basis may result in fluctuations in revenue from year to year due to the likelihood for a higher proportion of multi-year licenses/permits to be renewed in a particular fiscal year.

OHCQ estimates that the decrease in general fund revenue will total \$1,118,290 annually beginning in fiscal 2019. The OHCQ estimate includes an additional \$128,530 reduction in general fund revenues due to the elimination of fees collected from assisted living programs. However, any reduction in revenues related to assisted living programs was

already assumed in the fiscal and policy note for Chapter 772 and is, therefore, not included in the DLS estimate.

OHCQ may realize some administrative efficiencies due to the elimination of renewal and fee collection requirements. While it is likely that such changes will have an impact on OHCQ *operations*, a precise estimate of any impact on *expenditures* is unknown and is, thus, not included in this analysis.

Small Business Effect: MDH advises that the bill impacts approximately 3,000 to 4,000 small businesses. These facilities will no longer be required to pay license renewal fees or submit renewal applications. DLS concurs that the impact is beneficial, but notes that the impact of the fee eliminations for most small business licensees is likely to be relatively minimal, likely measured in the hundreds of dollars per year, and that administrative efficiencies gained through no longer submitting renewal applications will be similarly minimal.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Health; U.S. Department of Health and Human Services; Department of Legislative Services

Fiscal Note History: First Reader - January 16, 2018
mm/jc Third Reader - March 26, 2018
Revised - Amendment(s) - March 26, 2018
Revised - Updated Information - March 26, 2018

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Appendix 1 – Providers Impacted by the Elimination of Renewal Requirements

- Adult Medical Day Care Centers
- Ambulatory Detoxification Programs
- Assisted Living Programs
- Birthing Centers
- Cholesterol Testing Sites
- Community Mental Health Centers
- Comprehensive Outpatient Rehab Facilities
- Correctional Health Facilities
- Correctional Substance Abuse Programs
- Developmental Disabilities Sites
- DWI Education Programs
- Employer Drug Testing Facilities
- Federally Qualified Health Centers
- Federally Waived Laboratories
- Forensic Laboratories
- Forensic Residential Centers
- Freestanding Ambulatory Surgical Centers
- Freestanding Renal Dialysis Centers
- Group Homes for Adults with Mental Illness
- Health Awareness Testing Sites
- Health Care Staff Agencies
- Health Maintenance Organizations
- Home Health Agencies
- Hospice Houses
- Hospices
- Hospital Laboratories
- Hospitals
- Independent Reference Laboratories
- Intermediate Care Facilities for Individuals with Intellectual Disabilities
- Long Term Care Facilities
- Major Medical Equipment Providers
- Mental Health Vocational Programs
- Mobile Treatment Services
- Nurse Referral Agencies
- Opioid Maintenance Therapy Programs
- Outpatient Mental Health Centers
- Outpatient Physical Therapy Providers
- Outpatient Treatment Programs
- Patient Safety Program
- Physician Office Laboratories
- Point-of-Care Laboratories
- Portable X-Ray Providers
- Psychiatric Day Treatment Services
- Psychiatric Rehab Programs for Adults
- Psychiatric Rehab Programs for Minors
- Public Health Testing Sites
- Residential Crisis Services
- Residential Detox Treatment Programs
- Residential Programs
- Residential Rehabilitation Programs
- Residential Service Agencies
- Residential Treatment Centers
- Respite Care Services
- Therapeutic Group Homes
- Therapeutic Nursery Programs
- Tissue Banks
- Transplant Centers

Source: Office of Health Care Quality; Department of Legislative Services

Appendix 2 – Elimination of Application and Renewal Fees

License/Permit	Term	Number of Providers	Current Fee	Estimated Annualized Revenue Reduction
Assisted Living Programs	2 Years	1,531	\$50 to \$375 based on capacity	\$128,530 ¹
Hospitals	3 Years	64	\$3,000 per accreditation period; \$1,000 annually for nonaccredited	\$64,000
Employer Drug Testing Facilities	2 Years	148	\$50 initial and renewal	\$3,700
Tissue Banks	2 years; 6 months provisional permit	343	\$200 initial or renewal license or provisional permit; \$50 to amend or replace a permit	\$237,200
Birthing Centers	3 Years	2	\$300 initial and renewal	\$100
Comprehensive Outpatient Rehabilitation Facilities	1 Year	1	\$10 initial and renewal	\$10
Freestanding Ambulatory Surgical Centers	3 Years	337	\$1,000 initial and renewal	\$112,333
Freestanding Renal Dialysis Centers	3 Years	151	\$700 initial and renewal	\$35,233
Major Medical Equipment Providers	3 Years	225	\$700 initial and renewal	\$52,500
Nurse Referral Agencies	3 Years	167	\$1,000 initial and renewal	\$55,667
Residential Service Agencies	3 Years	1,139	\$1,000 initial and renewal	\$379,667
Mobile Treatment Services	3 Years	28	\$700 application; \$100 to \$150 renewal based on capacity	\$49,350
Total		4,136		\$989,760¹

¹ Chapter 772 of 2017 repealed the requirement that the Maryland Department of Health charge fees for the issuance and renewal of assisted living facility licenses; therefore, the fiscal and policy note for Chapter 772 already accounted for the general fund revenue reduction associated with this license type and it is not reflected in this analysis.

Source: Office of Health Care Quality; Department of Legislative Services

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

**Department of Health
Session 2018**

TITLE: Health Care Programs and Facilities – License Fees
and Renewal Requirements - Repeal

PREPARED BY: Maryland Department of Health

(Program\Unit): Office of Health Care Quality

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

 WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESS

OR

 X WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

OHCQ estimates that of the 18,032 health care providers it oversees, 3,000 – 4,000 are small businesses. This proposal decreases current and future costs for all providers. In particular, there will be a positive operational impact on the many small businesses overseen by OHCQ by reducing their administrative and fiscal burdens. Furthermore, the faster initial licensure of providers will improve access to health care services for consumers, increase choice of providers, and decrease start-up costs for businesses.

OHCQ has calculated the total amount of fees collected from providers based on current statute and regulation. Most of the fees are collected on a multi-year basis and providers enter and exit the marketplace throughout the year. Therefore, the fiscal impact to the general fund is an estimate derived from the current fee structure, the number of years a fee covers, and the provider census conducted July 1, 2016.