

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE

Senate Bill 236 (Senator Hollinger)
Economic and Environmental Affairs

Nurses - Exercise of Professional Judgment

This bill establishes the circumstances under which the State Board of Nursing may take disciplinary action when a nurse's professional judgment is at issue. The bill also specifies when unlicensed persons are subject to penalties for interfering with a nurse's judgment.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

Local Effect: Potential minimal increase in revenues and expenditures due to the bill's penalty provisions.

Fiscal Analysis

Bill Summary: This bill establishes that the State Board of Nursing may take disciplinary action if a nurse: (1) directs another nurse to accept an assignment for which he or she is not trained; or (2) interferes with another nurse's refusal to accept responsibility for supervising an unlicensed individual performing a task for which, in the nurse's professional judgment, that individual is not trained. Exceptions are provided when an emergency situation exists unless that emergency results from recurring and reasonably anticipated conditions.

In addition, the bill provides that a person may not interfere with a nurse's refusal to: (1) accept an assignment for which he or she is not trained; or (2) accept responsibility for supervising an unlicensed individual performing a task for which, in the nurse's professional judgment, that individual is not trained. Similar exceptions for emergency situations, as cited above, are provided.

An unlicensed person who violates any provisions of this bill is subject to a fine not exceeding \$5,000 and/or imprisonment not exceeding one year. Persons licensed or certified to provide health care services, including similarly authorized supervisory personnel at accredited hospitals, are not subject to these penalties.

The bill authorizes hospitals or other employers of nurses to develop, for board approval, written protocols governing matters covered in this bill. The bill specifies how compliance with such protocols would comport with applicable penalty provisions.

State Revenues: General fund revenues could increase under the bill's monetary penalty provisions for those cases heard in the District Court, depending upon the number of convictions and fines imposed.

State Expenditures: The bill codifies existing practice in the case of inappropriate delegation and assignment by a nurse. The prohibition for inappropriate delegation and assignment by an unlicensed person is new; as are provisions for board recognized protocols. Therefore, general fund expenditures could increase as a result of the bill's incarceration penalties due to increased payments to counties for reimbursement of inmate costs, depending upon the number of convictions and sentences imposed.

Persons serving a sentence of one year or less are sentenced to a local detention facility. The State reimburses counties for part of their per diem rate after a person has served 90 days. State per diem reimbursements for fiscal 1997 are estimated to range from \$10 to \$48 per inmate depending upon the jurisdiction. Persons sentenced in Baltimore City are incarcerated in the Baltimore City Detention Center (BCDC), a State operated facility. The per diem cost for fiscal 1997 is estimated at \$43 per inmate.

Local Revenues: Revenues could increase under the bill's monetary penalty provisions for those cases heard in the circuit courts, depending upon the number of convictions and fines imposed.

Local Expenditures: Due to the bill's new prohibition against unlicensed persons, and the potential for future protocols, expenditures could increase as a result of the bill's incarceration penalties depending upon the number of convictions and sentences imposed. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$19 to \$96 per inmate in fiscal 1997.

Information Source(s): Department of Health and Mental Hygiene (Board of Nursing),
Department of Fiscal Services

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Analysis by: Guy Cherry

Reviewed by: John Rixey

Direct Inquiries to:

John Rixey, Coordinating Analyst

(410) 841-3710

(301) 858-3710