

Department of Legislative Services
 Maryland General Assembly
 2000 Session

FISCAL NOTE

House Bill 1217 (Delegate Redmer. *et al.*)

Environmental Matters

Health Occupation Boards - Professional Disciplinary Actions

This bill make various changes to current law applicable to professional disciplinary actions conducted by health occupations boards.

The bill shall be construed retroactively and be applied to and interpreted to affect the years beginning October 1, 1998.

Fiscal Summary

State Effect: Special fund expenditures for the health occupation boards would increase by at least \$2.7 million in FY 2001. Expenditures for the Office of Administrative Hearings (OAH) would increase by \$715,300 in FY 2001. Future year expenditures reflect annualization and inflation. No effect on revenues.

| (in millions) | FY 2001 | FY 2002 | FY 2003 | FY 2004 | FY 2005 |
|-----------------|---------|---------|---------|---------|---------|
| SF Revenues | \$0 | \$0 | \$0 | \$0 | \$0 |
| SF Expenditures | 2.7 | 3.7 | 3.7 | 3.8 | 3.8 |
| GF/SF/FF Exp* | 0.7 | 0.8 | 0.9 | 1.0 | 1.0 |
| Net Effect | (\$3.4) | (\$4.5) | (\$4.6) | (\$4.8) | (\$4.8) |

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

**Office of Administrative Hearings - funded through reimbursable funds, and assume a mix of 50% general funds, 30% special funds, and 20% federal funds.*

Local Effect: None.

Small Business Effect: Potential meaningful. An individual who is licensed to practice a particular health occupation and who has lost a license since October 1, 1998, may be able to have the license to practice reinstated in a new hearing.

Analysis

Bill Summary: This bill: (1) establishes a statute of limitations for filing a disciplinary action against an individual under a health occupation board's authority; (2) establishes a right to counsel for an individual under a health occupation board's authority; and (3) prohibits an individual who served as counsel to a health occupation board from serving as a prosecutor in a disciplinary action against an individual under a health occupation board's authority.

In addition, in situations where a health occupation board fails to provide access to public records, an individual who is facing a disciplinary hearing may request: (1) dismissal of the disciplinary action; (2) postponement of the disciplinary action until the board complies with access to certain records; or (3) any other relief necessary to protect the rights of an individual under a health occupation board's authority.

A health occupation board must delegate contested case hearing authority to OAH. The board has final authority with respect to the disposition of the case or any penalty fees imposed, but is bound by OAH's findings of fact and conclusions of law, except upon clear and convincing evidence to the contrary. A board must promptly transmit a request for a contested case to OAH. OAH must conduct the hearing and complete the hearing procedure within 90 days. The 90-day limit may be extended with the written approval of the Chief Administrative Law Judge.

Current Law: All health occupation boards are authorized to conduct a contested case hearing.

Background: The 18 health occupation boards manage their disciplinary proceedings in different ways. For example, the Board of Nursing hears all of its contested cases internally. On the other hand, the Board of Physician Quality Assurance delegates all hearing authority to OAH. The remaining 16 boards hear the majority of their cases, but may refer some to OAH. OAH conducts approximately 22 hearings annually for the health occupation boards, most of which have been referred by the Board of Physician Quality Assurance.

State Expenditures: Special fund expenditures for the health occupation boards would increase by at least \$2.7 million in fiscal 2001. Expenditures for OAH will increase by \$715,276 in fiscal 2001. Future year expenditures reflect annualization and inflation.

Board of Nursing. The Board of Nursing hears about 24 cases annually, at an average hearing cost of \$10,000. Under the bill's requirements, all cases will be referred to OAH for hearing. Special fund expenditures for the board will increase by \$219,193 in fiscal 2001, which reflects the bill's October 1, 2000, effective date. This estimate reflects the cost of hiring one new Assistant Attorney General to represent the board in any additional hearings that may result due to the bill's retroactive application. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. Future year expenditures reflect: (1) a full salary with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Sixteen Smaller Boards. These boards manage approximately 1,300 complaints annually, of which 560 require hearings. Special fund expenditures for the 16 boards will increase by at least \$2,520,000 in fiscal 2001, which reflects the bill's October 1, 2000, effective date. This estimate is based on the following facts and assumptions.

- the average length of time to conduct a hearing is five days.
- the average daily cost of a hearing is \$1,200.

This estimate does not take the bill's retroactive application into account, which could result in a large number of additional cases.

Board of Physician Quality Assurance. The board currently refers all hearings to OAH; therefore, there will be no fiscal impact associated with the bill's requirements.

Office of Administrative Hearings. Expenditures for OAH will increase by \$715,276 in fiscal 2001, which accounts for the bill's October 1, 2000, effective date. This figure assumes a mix of 50% general funds, 30% special funds, and 20% federal funds. The estimate reflects the cost of hiring 16 new administrative law judges to conduct 560 additional hearings. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. Future year expenditures reflect: (1) a full salary with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene (Board of Nursing, Board of Physician Quality Assurance, Boards and Commissions), Office of Administrative

Hearings, Department of Legislative Services

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