

Department of Legislative Services
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FISCAL NOTE
Revised

House Bill 847

(Chairman, Environmental Matters Committee)

Environmental Matters

Finance

**State Board of Examiners of Nursing Home Administrators - Sunset Extension
and Program Evaluation**

This bill extends the sunset date for the State Board of Examiners of Nursing Home Administrators (BENHA) from July 1, 2003 to July 1, 2013, and requires another sunset evaluation on or before July 1, 2012.

Fiscal Summary

State Effect: General fund revenues and expenditures for this board would be maintained beyond FY 2003. The FY 2003 budget allowance for the board is \$168,000. It is anticipated that the board will collect \$62,550 in fees in FY 2003. Out-year revenues and expenditures are expected to remain relatively constant.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill provides that a nursing home administrator may not supervise, direct, induce, or help an unlicensed individual to practice as a nursing home administrator. It also specifies that prosecutions for misdemeanor offenses under the nursing home administrators' title must be instituted within three years after the offense was committed. BENHA is required to report to the Senate Education, Health, and Environmental Affairs and House Environmental Matters committees on or before October 1, 2002 on implementation of the Department of Legislative Services' (DLS) recommendations in its sunset evaluation of BENHA. By October 1, 2003, BENHA

must report to the Senate Economic, Health, and Environmental Affairs and House Environmental Matters committees on its recommendations for an “Administrator-in-Training Program” (AITP). The report must include an evaluation of the appropriate duration of AITP, the propriety of giving more credit for related experience or education, whether a training administrator can train in a facility with a maximum of 75 beds, and how an AITP can incorporate more quality of care training.

Current Law: BENHA is to terminate operations as of July 1, 2003. The law provides that initiation of a prosecution for a misdemeanor violation under the nursing home administrators’ title must take place within one year of the commission of the offense.

The board is subject to the Maryland Program Evaluation Act, also known as the “Sunset Law,” which provides a system of periodic legislative review of the regulatory, licensing, and other activities of various units of State government. “Sunset review” determines the need for certain programs, services, and other governmental functions and is intended to make governmental activities responsive to the public interest.

Background: Nursing homes and nursing home administrators are regulated by the State. The Office of Health Care Quality (OHCQ) regulates nursing homes in Maryland and BENHA regulates nursing home administrators. The 11-member board licenses and disciplines administrators to protect the public welfare -- especially the infirm, aged, and chronically ill residents of nursing homes. BENHA must ensure that nursing home administrators meet and maintain qualifications and professionalism. Federal regulations require states to regulate nursing home administrators.

The bill arises out of the sunset evaluation of BENHA performed by DLS in 2001. In its report, DLS recommended that BENHA be continued and its termination date be extended to July 1, 2013. The bill extends the statute of limitations for initiation of misdemeanor prosecutions under the nursing home administrators’ title to conform to a similar statute of limitations for practicing medicine without a license. Other DLS recommendations include:

- Legislation should be enacted to establish two *ex officio* seats on BENHA. One representative should be from the State Ombudsman Program in the Department of Aging and the other representative from OHCQ.
- BENHA should continue to use its own examination, rather than the national examination, to test for Maryland-specific knowledge.

- BENHA should require specific continuing education credits to improve knowledge in areas where administrators may be undertrained, as indicated by OHCQ inspection reports and other resources.
- BENHA should develop a plan to improve communication with licensees. A plan could include improving the board newsletter to provide more specific information about legislation, survey deficiencies, and disciplinary actions.
- BENHA should evaluate the potential for a shortage of administrators by monitoring the number of practicing licensees. If a shortage is detected, BENHA should develop a program to attract and retain licensees.
- BENHA should not wait for OHCQ to complete its investigation to begin an investigation against an administrator. Protocols should be developed on the proper time to initiate an investigation, the proper actions to address an OHCQ deficiency report and the tracking of each licensee's survey deficiencies to enable investigation of patterns.
- BENHA should develop a plan to make it easier for consumers to file complaints. At a minimum, the plan should address a change in the voice mail message, the taking of complaints by phone, and include a complaint form and instructions for submission.
- BENHA should work with the Office of Attorney General and the State's Attorney's Office to conclude complaint resolutions in a more timely manner and ensure that prosecutions are initiated when warranted.
- BENHA should develop a plan to raise fees to contribute more to the State general fund. The gap between revenues and expenditures could be narrowed. BENHA should look at increasing renewal and reinstatement fees rather than initial licensing fees. Regulations to increase fees should be implemented as necessary.

State Fiscal Effect: General fund expenditures for BENHA will be maintained beyond fiscal 2003, because the bill proposes to continue BENHA. Because the board is general funded, there is no statutory requirement that fees collected by the board cover board expenditures. For fiscal 2003, the projected general fund revenues from fees is \$62,550, and the budget allowance for BENHA is \$167,747.

Additional Information

Prior Introductions: None.

Cross File: SB 718 (Chairman, Finance Committee) – Finance.

Information Source(s): Department of Legislative Services

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