SB 72

Department of Legislative Services

Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 72 (The President) (By Request – Department of Legislative Services)
Education, Health, and Environmental Affairs Health and Government Operations

Respiratory Care Professional Standards Committee - Sunset Extension and Program Evaluation

This bill extends the sunset date for the Respiratory Care Professional Standards Committee (the committee), a sub-unit of the State Board of Physicians (the board), from July 1, 2007 to July 1, 2013, and requires another sunset evaluation on or before July 1, 2012.

Fiscal Summary

State Effect: Special fund expenditures and revenues would be maintained for the committee beyond FY 2007. The committee, as a sub-unit of the board, does not have a separate budget allowance. The committee's annual revenues averaged $168,473 over the last two fiscal years while its annual special fund expenditures are estimated at $230,426. The board covers the remainder of the committee's costs. Out-year revenues and expenditures are expected to remain relatively constant.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The Respiratory Care Professional Standards Committee will terminate July 1, 2007.

The committee is charged with:

- reviewing all applications for licensing, renewal, and reinstatement of respiratory care practitioners as well as making recommendations to the board;

- making recommendations to the board regarding standards of care for respiratory care practitioners, regulations governing respiratory care practitioners, the accreditation status of education programs in respiratory care for the board's approval, and the endorsement of credentials of respiratory care practitioners from outside of the State;

- investigating complaints against respiratory care practitioners as referred by the board;

- developing and recommending a code of ethics;

- developing and recommending continuing education requirements for license renewal to the board; and

- advising the board on matters related to the practice of respiratory care.

The practice of respiratory care has been regulated by the board since 1988. At that time, a respiratory care practitioner was required to be certified by the board in order to practice. In 1995, legislation was introduced that attempted to codify scope of practice regulations and license respiratory care practitioners, given the responsibilities of the respiratory care practitioner. The next year the General Assembly passed Chapter 516 of 1996, the Maryland Respiratory Care Practitioners Act. This Act created the committee, codified the scope of practice standards, and established a licensing statute.

Chapter 479 of 2001 requires hospitals, related institutions, alternative health systems, or employers of a respiratory care practitioner to report to the board any changes to the respiratory care therapist's duties for any reason that may be grounds for disciplinary action under the statute. There are exceptions to this notice requirement for respiratory care practitioners who disclose that they are in treatment for alcohol or drug abuse. This law also requires the revocation of a license for conviction of a crime based on moral turpitude.

Background: The practice of respiratory care includes the evaluation, treatment, and caring for patients with breathing disorders, including asthma, chronic bronchitis, emphysema, cystic fibrosis, and coronary heart disease under a physician's direction.

This bill arises out of the preliminary sunset evaluation of the committee performed by the Department of Legislative Services (DLS) during 2003. In its report, DLS recommended that the committee be continued and its termination date extended to July 1, 2013. In addition, DLS recommended that the committee submit a follow-up report to the Senate Education, Health, and Environmental Affairs Committee and the House Health and Government Operations Committee by October 1, 2004, on the steps taken to:

- bring the membership of the committee into compliance with the requirements in statute;

- recruit and retain a consumer member to fill the persistently vacant seat on the committee;

- compose and introduce legislation authorizing the use of alternate members at committee meetings, or, alternately, phase out the alternate committee member system; and

- encourage regular attendance by committee members at scheduled committee meetings including exploring a more appropriate scheduled time for committee meetings.

Over the past five years, the number of licensed respiratory care practitioners has fluctuated between 2,300 and 2,000, with the most recent number of respiratory care practitioners in Maryland recorded at 2,283. The committee reports that there is a growing shortage of respiratory care practitioners in the State. The committee is working with the Governor's Workforce Investment Board to increase the number of individuals entering the profession.

Licensing fees are received by the board, not the committee. An initial license fee is $184, and the renewal fee is $169. These fees became effective July 1, 2003, and were recently increased from $150 to $184 and $135 to $169. The $34 fee increase is not revenue for the board. This past year, the Maryland Health Care Commission determined that respiratory care practitioners, as well as other specified allied health care practitioners, should also pay part of the commission's costs of regulating the health care industry in the State. The assessment fee is paid to the board and deposited in the Maryland Health Care Commission Fund.

The current committee is composed of four respiratory care practitioners, two physicians, and no consumer member. Statute requires the committee to consist of seven members − three respiratory care practitioners, three physicians, and one consumer. Although the committee has been functioning without an appointed physician member specializing in thoracic surgery, it has been functioning as if it were in compliance with the statute because the board had appointed an alternate physician member who specializes in thoracic surgery. However, in its response to the preliminary sunset evaluation report, the board noted that a physician with this specialty has been appointed, effective February 2004, and one of the four respiratory care practitioner committee members has been redesignated as an alternate member. According to regulation, the board is required to choose six alternate committee members – three alternate respiratory care practitioners and three alternate physician members.

State Fiscal Effect: Special fund revenues for the committee will be maintained beyond fiscal 2007 because the bill proposes to continue the committee. The committee's annual revenues averaged $168,473 over the last two fiscal years while its annual special fund expenditures are estimated at $230,426. Special fund revenues to the board from assessments on licensees are dependent on the number of practicing professionals. Although the committee's revenues do not completely cover its expenditures, the board covers the remainder of the committee's costs in exchange for greater authority in licensing respiratory care practitioners.

Additional Information

Prior Introductions: None.

Cross File: HB 108 (The Speaker) (By Request – Department of Legislative Services) – Health and Government Operations.

Information Source(s): Department of Health and Mental Hygiene; *Preliminary Evaluation of the Respiratory Care Professional Standards Committee*, November 2003, Department of Legislative Services

Fiscal Note History: First Reader - January 26, 2004
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