

Department of Legislative Services

Maryland General Assembly

2004 Session

FISCAL AND POLICY NOTE

Revised

House Bill 944

(Delegate Menes, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

State Acupuncture Board - Maryland Acupuncture Act - Revisions

This bill makes various changes to the State Board of Acupuncture's practices.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions. No effect on Department of Health and Mental Hygiene (DHMH) special fund expenditures or Office of Administrative Hearings (OAH) general fund expenditures because the bill is not expected to increase the number of hearings. No effect on DHMH special fund revenues.

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

Small Business Effect: Meaningful for violators who are found guilty of a misdemeanor offense and charged a fine.

Analysis

Bill Summary:

Penalties

The bill increases the maximum misdemeanor penalties to a \$5,000 fine and/or three years imprisonment for an individual practicing without a license or misrepresenting her/himself as being authorized to practice acupuncture in the State. Prosecution of a

misdemeanor offense must be instituted within three years after the offense was committed.

Board Members

The bill extends board members' terms from three to four years.

Licensing

An acupuncturist is allowed a 30-day grace period to retroactively renew a license if the licensee otherwise is entitled to renew the license and pays the renewal fee and any late fee to the board.

The board may not place a licensee on inactive status for more than six years. It allows, rather than requires, the board to reinstate a former licensee who has failed to renew the license for any reason if the former licensee meets the continuing education requirements for each year the license has lapsed, applies for reinstatement more than 30 days after the renewal deadline, submits a reinstatement application, and pays the reinstatement and renewal fees.

The board may not assess the reinstatement fee required on a person who has been on inactive status for more than six years if the person can provide documentation of maintaining an active license in another state. A person who was previously licensed by the board must obtain a license only by means of license renewal or reinstatement.

Uncodified language in the bill requires that, by the bill's October 1, 2004 effective date, the board must send a summary of these changes to each licensee by first-class mail to the licensee's last known address.

Current Law: An acupuncturist license term may not be more than three years. A license expires at the end of its term unless renewed. At least one month before the license expires, the board must send a renewal notice by first-class mail to the licensee's last known address. Before it expires, a license may be periodically renewed if the licensee is otherwise entitled to be licensed, pays the renewal fee, and submits to the board a renewal application and satisfactory evidence of complying with continuing education requirements.

A licensee may be placed on inactive status if the licensee submits the inactive application and required fee to the board. The board must issue a license to an individual on inactive status if the individual complies with renewal requirements in existence when the individual changes from inactive to active status.

The board may reinstate the license of a former licensee who has failed to renew the license for any reason if the licensee meets the renewal requirements and pays the reinstatement fee.

A majority of the board may deny a license to practice acupuncture to any applicant, reprimand a licensee, place any licensee on probation, or suspend or revoke a licensee if the licensee takes certain actions including: (1) fraudulently or deceptively obtaining, attempting to obtain, or using a license; (2) is professionally, physically, or mentally incompetent; (3) willfully makes or files a false report or record in the practice of acupuncture; or (4) submits a false statement to collect a fee.

For this board, the maximum misdemeanor penalty is a \$1,000 fine and/or one year imprisonment. The maximum misdemeanor penalties vary considerably for other health occupations boards.

Background: There are 720 licensed acupuncturists in Maryland.

State Revenues: General fund revenues could increase minimally as a result of the bill's monetary penalty provisions from cases heard in the District Court.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's increase in incarceration penalties due to more people being committed to Division of Correction facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of these proposed crimes is expected to be minimal.

DHMH special fund expenditures and OAH general fund expenditures are not expected to increase in fiscal 2005 or the out-years because the bill is not expected to increase the number of hearings.

Local Revenues: Revenues could increase minimally as a result of the bill's monetary penalty provisions from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase minimally as a result of the bill's incarceration penalties. 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 \$29 to \$97 per inmate in fiscal 2005.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of Administrative Hearings, Department of Health and Mental Hygiene, Department of Legislative Services

Fiscal Note History: First Reader - March 2, 2004
ncs/ljm Revised - House Third Reader - March 29, 2004

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