

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 1154

(Delegate McComas, *et al.*)

Environmental Matters

Driver's Licenses - Medical Advisory Board - Reports by Physicians

This bill requires any physician or other person authorized to diagnose or treat disorders that are characterized by lapses of consciousness or visual impairment to report the full name, date of birth, and address of each individual 15 years or older who has such a disorder to the Medical Advisory Board (MAB). A report is not required if the individual's disorder is under sufficient control to safely operate a motor vehicle.

Fiscal Summary

State Effect: Potential increase in Transportation Trust Fund (TTF) expenditures if the bill generates enough additional cases that MAB will require additional personnel. Revenues will not be affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Applicants for a driver's license must affirm that they are medically fit to drive. MAB, created in 1947, serves as a review board to assist the Motor Vehicle Administration (MVA) in evaluating drivers with certain physical or mental disabilities that could interfere with their fitness to drive. MAB, comprised of about 20 physicians, investigates referrals and recommends to the MVA whether a person is able to drive or whether a driver requires certain restrictions, such as daylight driving only.

State law authorizes but does not require physicians or practitioners to report loss of consciousness or visual acuity disorders to MAB. Unless authorized by the person in question, a report may not be made from information derived from the diagnosis or treatment of the person on whom a confidential or privileged relationship is conferred by law. MAB's reports to the MVA are confidential and may only be disclosed on court order. These reports cannot be used for any purpose other than to determine the qualifications of a person to drive.

The federal Health Insurance Portability and Accountability Act of 1996 Privacy Rule provides that a covered entity may not use or disclose protected health information, except either: (1) as the Privacy Rule permits or requires; or (2) as the individual who is the subject of the information authorizes in writing. A covered entity is a: (1) health plan; (2) health care clearing house; or (3) health care provider who transmits health care information in electronic form.

The federal Department of Health and Human Services may impose civil money penalties on covered entities that do not comply with the Privacy Rule. Penalties are \$100 per incident of noncompliance and cannot exceed \$25,000 in one year.

If a medical condition is deemed severe, MAB may recommend a temporary emergency suspension of a license. The MVA may also suspend an individual's license indefinitely, after notifying the driver and conducting a hearing, if the individual cannot drive safely because of a physical or mental condition. Chapter 171 of 2003 extended this authority to include drivers with epilepsy.

Background: According to a 2002 report, about half of MAB's cases involve alcohol or drug dependency, while conditions that affect the endocrine system, such as diabetes, comprise almost a quarter of the cases. Vision problems due to cataracts, glaucoma, or other conditions account for 11% of circumstances that prompt a review of driver fitness. The smallest portion of review cases (approximately 3%) relate to neurological problems such as multiple sclerosis, Parkinson's disease, or epilepsy. Of the 12,000 referrals related to driver fitness in 2002, 739 resulted in an emergency suspension due to a medical condition. The MVA also suspended 549 licenses of drivers who failed to comply with certain requirements.

State Expenditures: TTF expenditures could increase if MAB's caseload increased from the bill's reporting requirement and additional nurses or case administrators are needed. The provision related to visual disorders would not have an impact because all license applicants must pass a vision test regardless of a physician's report. The MVA indicates that there were 35,000 loss of consciousness cases reported as pre-hospital care in 2002. If physicians were to report all or most of these cases to prevent a potential

lawsuit (even if the person was able to safely operate a vehicle), as MVA advises, approximately 18 nurses and seven case administrators would be required at a cost of \$1.3 million. The Department of Legislative Services (DLS) notes that it is unknown how many of these cases involve multiple incidents for one person and that the personnel requirements may be reduced as a result.

DLS advises, however, that State and federal laws prohibit physicians from reporting patient information without the patient's consent and impose criminal penalties for violations. The bill does not provide an exemption to those laws.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Transportation, Department of Legislative Services

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Analysis by: Ann Marie Maloney

Direct Inquiries to:
(410) 946-5510
(301) 970-5510