

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1452 (Delegate Mandel)
Health and Government Operations

Physicians - Unauthorized Practice of Medicine - Penalty

This bill modifies the current penalty for the unauthorized practice of medicine, changing it from a misdemeanor to a felony. A person who practices, attempts to practice, or offers to practice medicine without a license is guilty of a felony and subject to a fine of up to \$5,000 or imprisonment for up to five years or both.

Fiscal Summary

State Effect: Since the bill does not change current terms of imprisonment or the amount of fines that may be imposed, the bill is not expected to significantly affect State finances or operations.

Local Effect: Since the bill does not change current terms of imprisonment or the amount of fines that may be imposed, the bill is not expected to significantly affect local jurisdiction finances.

Small Business Effect: Minimal.

Analysis

Current Law: A person may not practice, attempt to practice, or offer to practice medicine in the State unless licensed by the Board of Physicians. A person who violates any provision of the laws governing the practice and regulation of physicians is guilty of a misdemeanor and subject to a fine of up to \$5,000 or imprisonment for up to five years or both. A person who practices medicine without a license is also subject to a civil fine of up to \$50,000 to be levied by the board.

The statute of limitations on prosecuting the unauthorized practice of medicine is three years. Generally, there is no statute of limitations on prosecuting a felony.

State Fiscal Effect: Changing the unauthorized practice of medicine from a misdemeanor to felony is not expected to significantly reduce State revenues or expenditures. The Board of Physicians advises there have been few, if any, criminal prosecutions for the unauthorized practice of medicine in recent years. Further, most cases brought in District Court would likely be removed to the circuit court because a defendant would request a jury trial.

The District Court and circuit courts have concurrent jurisdiction over the unauthorized practice of medicine since this crime is a misdemeanor that carries a term of imprisonment of more than three years and a fine of more than \$2,500. For a variety of reasons, including the probable need for expert medical testimony and other complex litigation issues, it is likely that a defendant would generally request a jury trial, removing the matter to circuit court. Given the likelihood that most, if not all, cases charging the unauthorized practice of medicine are already heard in the circuit court, changing the crime to a felony (which may only be heard in the circuit court) is expected to have minimal or no impact to District Court operations or general fund revenues or expenditures.

Local Fiscal Effect: For the reasons mentioned above, the bill is not expected to have a significant impact on local jurisdiction revenues or expenditures. Most cases of this nature would already be tried in the circuit court.

Additional Information

Prior Introductions: None.

Cross File: SB 826 (Senator Teitelbaum, *et al.*) – Education, Health, and Environmental Affairs.

Information Source(s): Department of Health and Mental Hygiene (Board of Physicians), Department of Public Safety and Correctional Services, Department of Legislative Services

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