

Department of Legislative Services
 Maryland General Assembly
 2006 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 102

(Chairman, Finance Committee)

(By Request – Departmental – Health and Mental Hygiene)

Finance

Health and Government Operations

Health Care Facilities and Laboratories - Accreditation Organizations and Deeming

This departmental bill modifies the licensure process for a variety of health care facilities that currently may be deemed as having met State licensure requirements by obtaining accreditation by a recognized independent accreditation organization.

Fiscal Summary

State Effect: Department of Health and Mental Hygiene (DHMH) expenditures could increase by \$118,900 in FY 2007. Future year estimates reflect annualization and inflation. No effect on revenues.

| (in dollars) | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 |
|----------------|-------------|-------------|-------------|-------------|-------------|
| Revenues | \$0 | \$0 | \$0 | \$0 | \$0 |
| GF Expenditure | 118,900 | 135,700 | 143,000 | 150,700 | 159,000 |
| Net Effect | (\$118,900) | (\$135,700) | (\$143,000) | (\$150,700) | (\$159,000) |

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: DHMH has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The bill repeals current accreditation provisions for hospitals, HMOs, ambulatory care facilities, assisted living facilities, laboratories, home health agencies, comprehensive rehabilitation facilities, and residential treatment centers (RTCs) and instead subjects these facilities to a uniform accreditation regulatory system.

The bill requires accreditation organizations to apply to DHMH for approval. Prior to approval, DHMH must: (1) determine that the standards of the accreditation organization are equal to or more stringent than existing State requirements; (2) evaluate the survey or inspection process of the accreditation organization to ensure the integrity of the survey process; and (3) enter into a formal written agreement with the accreditation organization that includes requirements for notice of surveys and inspections, sharing complaint information, DHMH participation in the accreditation process, and any other provision necessary to ensure the integrity of the accreditation and licensure process.

When an approved accreditation organization has issued a final report finding a health care facility to be in substantial compliance with the accreditation organization's standards, DHMH must accept the report as evidence that the health care facility has met State licensure requirements and grant the health care facility "deemed" status. Deemed status means a health care facility is exempt from routine surveys conducted by DHMH. An accreditation organization must send DHMH any preliminary and final report of each inspection and survey at the time it is sent to the facility.

A health care facility that fails to achieve substantial compliance with an accreditation organization's standards may be subject to corrective action requirements. If the Secretary determines that a serious or life-threatening patient care deficiency exists and the health care facility fails to correct the deficiency through implementation of immediate corrective action, the Secretary may: (1) revoke or restrict the license to operate; (2) impose a civil monetary penalty of not more than \$10,000 per instance or per day; (3) impose a directed plan of correction; and (4) impose appropriate operation conditions.

The bill specifies situations under which DHMH may inspect an accredited health care facility.

If DHMH determines that an approved accreditation organization has failed to meet its obligations, DHMH may withdraw approval as well as the deemed status given to a health care facility by the accreditation organization.

Current Law: Several types of health care facilities may use accreditation by an accreditation organization in lieu of meeting licensure requirements. DHMH may still conduct inspections of these facilities under specified circumstances. When inspecting specified accredited facilities, such as a hospital or RTC, DHMH must use the current applicable standards of the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

Background: State law provides for deeming certain specified health care settings that include hospitals, ambulatory care facilities, HMOs, assisted living providers, and laboratories using independent accreditation. The lack of consistency among these settings in the requirements for deeming has resulted in fragmentation of the accreditation and deeming process.

In 2004, the Office of Health Care Quality (OHCQ) and the federal Centers for Medicare and Medicaid Services (CMS) conducted surveys of the Maryland General Hospital, prompted by concerns about the validity of tests performed on a certain piece of laboratory equipment between June 2002 and August 2003. OHCQ and CMS surveyors identified shortcomings in the lab operations and oversight that may have resulted in up to 460 patients receiving invalid HIV and hepatitis test results.

Given the recent problems at Maryland General Hospital, DHMH completed a review of its approval process for accrediting organizations and statutes relating to deeming. Subsequently, it was determined that a single deeming statute for all health care facilities that have accreditation as an alternative for State licensure requirements would standardize the process across health care settings as well as provide for increased accountability of accreditation organizations. All accreditation organizations would only be approved after an analysis that demonstrates standards are equal to or more stringent than DHMH standards. A memorandum of understanding would be developed that provided for joint surveys and information sharing. Discussions are currently underway with provider groups and accreditation organizations to determine an effective model.

State Fiscal Effect: General fund expenditures could increase by an estimated \$118,851 in fiscal 2007, which accounts for the bill's October 1, 2006 effective date. This estimate reflects the cost of hiring two health facility nurse surveyors to coordinate activities of the various accreditation organizations as well as review and evaluate materials provided to determine if the accreditation organizations' standards are equivalent to or more stringent than State licensure requirements. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

| | |
|---|------------------|
| Positions | 2 |
| Salaries and Fringe Benefits | \$89,811 |
| Operating Expenses | <u>29,040</u> |
| Total FY 2007 State Expenditures | \$118,851 |

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

The civil penalty provisions of this bill are not expected to significantly affect State revenues.

Additional Information

Prior Introductions: This bill is similar to the third reader version of HB 1320 of 2005. The bill passed both chambers, but was recommitted to the Senate Finance Committee.

Cross File: None.

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

Fiscal Note History: First Reader - January 20, 2006
 ncs/jr Revised - Enrolled Bill - April 24, 2006

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