

**Department of Legislative Services**  
 Maryland General Assembly  
 2006 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 957

(Delegate Benson, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

**Maryland Polysomnography Act**

This bill requires the State Board of Physicians (MBP) to license and otherwise regulate the practice of polysomnography.

**Fiscal Summary**

**State Effect:** MBP special fund expenditures could increase by \$30,700 in FY 2007. MBP special fund revenues could increase by \$30,000 in FY 2008 from new licensure fees. Future year estimates reflect annualization, inflation, a biennial renewal process with renewal in even-numbered years, and assume 10% growth in the number of licenses issued.

(in dollars)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
SF Revenue	\$0	\$30,000	\$3,000	\$36,000	\$3,000
SF Expenditure	30,700	35,200	37,400	39,900	42,500
Net Effect	(\$30,700)	(\$5,200)	(\$34,400)	(\$3,900)	(\$39,500)

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

**Local Effect:** None.

**Small Business Effect:** None.

**Analysis**

**Bill Summary:** The bill establishes the “Maryland Polysomnography Act.” The practice of polysomnography means monitoring and recording physiologic data during sleep, including sleep-related respiratory disturbances under the supervision of a licensed

physician, or using these data for the purposes of assisting a licensed physician in the diagnosis and treatment of sleep and wake disorders. It also includes diagnosing and treating individuals who suffer from sleep disorders under certain circumstances.

The board must adopt regulations for the licensure and practice of polysomnography. The board must set reasonable fees for licensure and renewal. Fees must be set to approximate the cost of maintaining the licensure program.

The bill creates a Polysomnography Professional Standards Committee (PPSC) within the board. The committee must develop and recommend to the board various provisions necessary to appropriately regulate the profession, including regulations, a code of ethics, standards of care for the practice of polysomnography, and requirements for licensure.

An individual must be licensed by MBP before the individual may practice polysomnography in the State. Every such technologist must be licensed by October 1, 2009. Students enrolled in an education program who are practicing polysomnography as part of the program are excepted from the requirement.

The bill requires a licensed polysomnographic technologist to practice under the supervision of a licensed physician. The bill also specifies: (1) requirements for licensure; (2) disciplinary actions the board may take; (3) prohibited practices; (4) hearing procedures; (5) reporting requirements for health care providers and employers; (6) that the Maryland Polysomnography Act is subject to the Maryland Program Evaluation Act and has a termination date of July 1, 2011; and (7) that PPSC shall undergo a full evaluation, unless waived, by July 1, 2010.

A person who violates any provision is guilty of a misdemeanor and subject to a fine of up to \$1,000 or imprisonment for up to one year or both. Any person who practices polysomnography without a license is subject to a civil fine of up to \$5,000 to be levied by the board and paid into the Board of Physicians Fund.

The bill also requires MBP, the MD/DC Society for Respiratory Care, and the Maryland Sleep Consortium to meet annually in 2007 and 2008 to discuss new developments in the accreditation of the registered polysomnography education programs in the State. A report on these developments must be sent to specified committees by December 31, 2008.

**Current Law:** The practice of polysomnography is not currently regulated by the State.

Currently, there are three allied health professions committees within MBP: (1) Physician Assistant Advisory Committee; (2) Radiation Oncology/Therapy

Technologists, Medical Radiation Technologists, and Nuclear Medicine Technologists Advisory Committee; and (3) Respiratory Care Professional Standards Committee.

**Background:** Polysomnography is a test to diagnose sleep apnea and determine its severity, according to the National Institutes of Health National Heart, Lung, and Blood Institute. Sleep apnea is a breathing disorder that occurs when a sleeping person's breathing pauses. A person with sleep apnea often snores between episodes when his or her breathing pauses. Sleep apnea can also be related to an irregular heartbeat, high blood pressure, heart attack, and stroke.

HB 1181 of 2004 attempted to have polysomnography practices regulated by the Board of Physicians' Respiratory Care Professional Standards Committee. The committee was to develop and recommend regulations relating to the practice of polysomnography within a respiratory care professional's current scope of practice. The board would have been required to authorize an individual to practice as a polysomnographic technologist, a polysomnographic technician, or a polysomnographic trainee. The bill was referred to summer study, but no report was issued.

**State Fiscal Effect:** MBP advises that it would need one part-time administrative officer and one part-time attorney in order to administer the provisions of this bill. The Department of Legislative Services disagrees with this assessment and believes that MBP could administer the provisions of this bill with one part-time administrative officer.

Accordingly, MBP special fund expenditures could increase by an estimated \$30,685 in fiscal 2007, which accounts for the bill's October 1, 2006 effective date. This estimate reflects the cost of hiring one part-time administrative officer to assist in promulgating regulations, handle inquiries from potential applicants, collect and verify applications, process licenses, and maintain a database of all licensed individuals. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salary and Fringe Benefits	\$22,482
Operating Expenses	<u>8,203</u>
<b>Total FY 2007 State Expenditures</b>	<b>\$30,685</b>

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

MBP special fund revenues could increase by \$30,000 in fiscal 2008 as licensure begins. This estimate assumes the board would charge a \$150 application/renewal fee and that, even though licensure for polysomnographic technologists would not become required

until October 2009, 200 individuals would initially apply for licensure. Future year estimates reflect biennial renewals in even-numbered years and assume 20 new applications annually.

The bill's penalty provisions are not expected to significantly impact State finances or operations.

**Additional Comments:** Entities subject to the Program Evaluation Act must undergo a preliminary evaluation on or before December 15 of the second year before their evaluation date under the Act. Based on the preliminary evaluation, the Legislative Policy Committee may waive the requirement of the full evaluation required under the Act. This bill requires a full evaluation of PPSC by July 1, 2010. Thus, PPSC must undergo a preliminary evaluation by December 15, 2008. While this preliminary evaluation would cover one year of PPSC licensing activity, licensure would not be required until October 2009.

The three allied health professions committees under MBP have an evaluation date of July 1, 2012 under the Program Evaluation Act.

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### **Additional Information**

**Prior Introductions:** HB 1022 of 2005, a similar bill, received an unfavorable report from the House Health and Government Operations Committee.

**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 - February 22, 2006  
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