

Department of Legislative Services
 Maryland General Assembly
 2007 Session

FISCAL AND POLICY NOTE

House Bill 1083 (Delegate Bromwell, *et al.*)
 Health and Government Operations

Health Occupations - Maryland Athletic Trainers Act

This bill requires the State Board of Physicians (MBP) to license and regulate “athletic trainers” and establishes an Athletic Trainer Advisory Committee within MBP. On or after October 1, 2010, an individual must be licensed by MBP before practicing athletic training in Maryland, with certain exceptions. A program evaluation must be conducted by July 1, 2012.

Subject to the Maryland Program Evaluation Act, the Maryland Athletic Trainers Act terminates July 1, 2013.

Fiscal Summary

State Effect: No effect in FY 2008 or 2009 as MBP establishes the committee and begins to develop regulations. Special fund expenditures could increase by \$37,400 in FY 2010 to hire a part-time administrator to support the committee and prepare to issue licenses. Future year special fund expenditures reflect inflation. Special fund revenue could increase by \$77,400 in FY 2011 as 469 athletic trainers are licensed. Future year special fund revenues reflect biennial licensure and 50 new licenses in FY 2012. Potential minimal increase in general fund revenues and expenditures beginning in FY 2011 due to the bill’s misdemeanor penalty provision.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
GF Revenue	\$0	\$0	\$0	-	-
SF Revenue	0	0	0	77,400	8,300
GF Expenditure	0	0	0	-	-
SF Expenditure	0	0	37,400	34,500	36,200
Net Effect	\$0	\$0	(\$37,400)	\$42,900	(\$27,900)

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

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

Small Business Effect: Meaningful for athletic trainers that would be required to be licensed.

Analysis

Bill Summary: The bill's provisions do not apply to • an individual employed by the federal government as an athletic trainer while practicing within that scope of employment; • an individual employed by or under contract with an entity located in another state and who is representing that entity at an athletic event or any other event for less than 90 days in Maryland; or • a student enrolled in an education program while engaged in clinical athletic training educational experiences. The bill also does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under the Health Occupations Article.

Athletic Trainer Advisory Committee

The committee duties include developing and recommending to MBP • regulations to carry out the bill's requirements; • an athletic trainer code of ethics; • athletic training standards of care; • licensure requirements, including athletic trainer educational and clinical training programs and criteria for a professional competency exam and testing of license applicants; • criteria for athletic trainers licensed in other states to practice in Maryland; • licensure renewal continuing education requirements; and • criteria for clinical education programs taught by a licensed athletic trainer. The committee also must • verify the accreditation status of MBP-approved athletic training educational programs; • evaluate the credentials of licensure applicants and recommend licensure for those who fulfill the requirements; • make recommendations to MBP concerning the practice of athletic training; • record its proceedings; and • submit an annual report to MBP.

The committee consists of seven members appointed by MBP: • three athletic trainers (who must meet certain requirements once licensure is required), • three physicians, and • one consumer. MBP must appoint the athletic trainer members from a list of qualified individuals submitted by the Maryland Athletic Trainers Association, Inc.

Committee members serve three-year terms which are intended to be staggered.

Licensure Requirements

To qualify for licensure, an applicant must • be of good moral character and at least 18; • be certified by a national board; • have graduated from an athletic trainer educational program accredited by the Commission on Accreditation of Athletic Training Education or its successor, unless the individual is recognized as an athletic trainer in good standing by a national certifying board on October 1, 2007; and • meet any other MBP-established educational and clinical training requirements. An applicant for licensure must submit an application form and fee.

In addition to any other qualifications and requirements MBP establishes, MBP may establish continuing education or competency requirements as a condition of licensure renewal.

A license expires on the date MBP sets, unless the license is renewed. The bill does not specify the term for which a license is valid. MBP must renew the license of each licensee who meets the bill's requirements. MBP must reinstate a license of an athletic trainer who has not placed the license on an inactive status and who has failed to renew the license for any reason if the athletic trainer • applies for reinstatement within 30 days after the license expires; • meets the renewal requirements; and • pays the reinstatement fee.

MBP may issue a temporary license to an applicant who either meets the appropriate requirements for athletic trainer licensure or has graduated from an accredited athletic trainer educational program and shows proof of application for the first available national certifying examination.

A temporary license authorizes the holder to practice athletic training only in association with a licensed athletic trainer. A temporary license expires 45 days after the date when the results of the first examination that the holder was eligible to take are made public. MBP may not issue more than two temporary licenses to one individual.

Licensure Fees

MBP must set reasonable fees for initial and renewal athletic trainer licenses and for other services the board provides to athletic trainers. The fees must produce funds to approximate the cost of maintaining the licensure program and other services. The fees must be used to cover the actual documented direct and indirect costs of fulfilling MBP's statutory and regulatory duties as provided by the bill.

Disciplinary Actions

MBP may take specified disciplinary actions against a license applicant, a licensee, or a temporary license holder if those individuals commit specified prohibited violations such as ● fraudulently or deceptively obtaining or attempting to obtain a license or temporary license for the applicant, licensee, or another; ● fraudulently or deceptively using a license or temporary license; and ● being found guilty of unprofessional or immoral conduct in the practice of athletic training.

Before MBP takes any disciplinary action, it must give the individual against whom the action is contemplated an opportunity for a board hearing. MBP may reinstate a revoked license if, on the application of an individual whose license has been revoked, a majority of the board's full authorized membership votes to do so.

Unless MBP agrees to accept the surrender of a license, a licensed athletic trainer or temporary license holder may not surrender the license nor may the license lapse by operation of law while the licensee is under investigation or while charges are pending against the licensee.

Misdemeanor and Civil Penalties

A person who violates any provision of the bill is guilty of a misdemeanor and on conviction is subject to a fine of up to \$1,000, up to one year imprisonment, or both.

Unless authorized to practice athletic training, a person may not represent to the public by title, description of services, methods, or procedures, or otherwise, that the person is authorized to practice in Maryland. Unless authorized to practice, a person may not use the abbreviation "A.T.," "A.T.L.," "L.A.T.," or any other words, letters, or symbols with the intent to represent that the person practices athletic training. Any person who violates these provisions is subject to a maximum civil fine of \$5,000. Civil fines must be paid into the Board of Physicians Fund.

Current Law: Athletic trainers are not regulated by the State. Individual health care providers who provide related services are regulated under their respective health occupations boards.

Background: There are 469 certified athletic trainers in Maryland who are in good standing with the existing national certification board NATABOC. Athletic trainers generally become certified before practicing. Forty-two states regulate athletic trainers: Alabama, Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine,

Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, and Wisconsin.

State Revenues: MBP advises that it would begin issuing athletic trainer licenses in fiscal 2009 and would charge \$150 for an initial and a renewal license. All athletic trainers would be required to be licensed by fiscal 2011, when licenses would begin to be renewed biennially.

Legislative Services disagrees with this estimate. The bill requires athletic trainers to be licensed *on or after* October 1, 2010, and does not authorize licensure before that date. Accordingly, Legislative Services assumes that the 469 athletic trainers currently certified would become licensed in fiscal 2011 at a slightly higher fee of \$165. Thus, special fund revenues in fiscal 2011 would total \$77,385. In fiscal 2012, it is assumed that another 50 athletic trainers would be licensed, providing \$8,250 in special fund revenue.

General fund revenues could increase minimally beginning in fiscal 2011 as a result of the bill's monetary misdemeanor penalty provision from cases heard in the District Court.

State Expenditures: No effect in fiscal 2008 or 2009 as MBP establishes the committee and begins to develop regulations. Special fund expenditures could increase by an estimated \$37,373 in fiscal 2010, which accounts for MBP beginning to license athletic trainers the following year. This estimate reflects the cost of hiring a part-time administrative officer to support the committee as its activities intensify, process applications, and issue the licenses. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salary and Fringe Benefits	\$27,144
Operating Expenses	<u>10,229</u>
Total FY 2009 State Expenditures	\$37,373
Positions	0.5

Future year expenditures reflect: (1) a part-time salary with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

General fund expenditures could increase minimally beginning in fiscal 2011 as a result of the bill's incarceration penalty due to increased payments to counties for reimbursement of inmate costs and more people being committed to Division of
HB 1083 / Page 5

Correction (DOC) facilities. The number of people convicted of this proposed crime is expected to be minimal.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2008 are estimated to range from \$21 to \$65 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in a DOC facility. Currently, the DOC average total cost per inmate, including overhead, is estimated at \$2,300 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$465 per month.

Local Revenues: Revenues could increase minimally beginning in fiscal 2011 as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase beginning in fiscal 2011 as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration 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 \$42 to \$120 per inmate in fiscal 2008.

Additional Information

Prior Introductions: A similar bill, HB 277 of 2004, had a hearing in the House Health and Government Operations Committee, and was referred to interim study by the committee. Its cross file, SB 411, had a hearing in the Senate Education, Health, and Environmental Affairs Committee and was withdrawn. Another similar bill, HB 1216 of 2002, was withdrawn.

Cross File: SB 584 (Senator Britt, *et al.*) – Education, Health, and Environmental Affairs.

Information Source(s): Department of Health and Mental Hygiene; National Athletic Trainers' Association Board of Certification, Inc.; Department of Legislative Services

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