

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

Senate Bill 483

(Senator Forehand)

Judicial Proceedings

Economic Matters

Professional Corporations - Physical Therapists

This bill adds a physical therapist to the list of individuals providing a professional service who may form a professional corporation to provide those services.

Fiscal Summary

State Effect: None. The change would not directly affect governmental finances.

Local Effect: None.

Small Business Effect: Meaningful for a physical therapist interested in forming a professional corporation to provide professional services.

Analysis

Current Law: Professional service is defined as a service that may lawfully be rendered only by a person licensed or otherwise authorized by a licensing unit in the State to render the service and that may not lawfully be rendered by a corporation under Maryland General Corporation Law. This includes, but is not limited to, a service provided by an architect; an attorney; a certified public accountant; a chiropractor; a dentist; an osteopath; a podiatrist; a physician; a professional engineer; a licensed real estate broker, licensed real estate salesperson, and licensed associate real estate broker; a veterinarian; and a psychologist.

A corporation may elect to be a professional corporation by including in the articles of incorporation a statement that the corporation is a professional services corporation and the corporation's purpose is to render the professional services specified.

An individual who renders a professional service as an employee of a professional corporation is liable for a negligent or wrongful act or omission in which the individual personally participated to the same extent as if the individual rendered the service as a sole practitioner. However, an employee of a professional corporation is not liable for a negligent or wrongful act or omission of another employee of the corporation unless the employee is negligent in appointing, supervising, or cooperating with the other employee.

A professional corporation whose employees perform professional services within the scope of their employment or within the scope of the employees' apparent authority to act for the corporation is liable to the same extent as its employees. The personal liability of a stockholder of a professional corporation is no greater than the liability of a stockholder of a corporation incorporated under the Maryland General Corporation Law.

Background: The Professional Service Corporation Act permits members of certain professions to organize their practices as a professional corporation. Through this business form, licensed individuals are able to obtain the benefits of limited liability and certain advantages available to corporations under federal tax law. Ownership of stock in a professional corporation is limited to individuals holding licenses in the profession.

In 2000, the Attorney General advised the State Board of Physical Therapy Examiners that an unlicensed individual or a business entity that is owned by unlicensed individuals may operate a physical therapy business by contracting with a licensed physical therapist or licensed physical therapist assistant to provide services to its customers. While a business that provides physical therapy services may be organized as a corporation, it may not be organized as a professional corporation even if the owners of the entity are licensed. The board retains authority to regulate the practice of physical therapy by the licensed individuals who provide the services offered by such a business, and to take action against the unlicensed practice of physical therapy.

Additional Information

Prior Introductions: None.

Cross File: HB 386 (Delegate Love) – Economic Matters.

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

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