

Department of Legislative Services
 Maryland General Assembly
 2009 Session

FISCAL AND POLICY NOTE

House Bill 1161 (Delegate Donoghue)
 Health and Government Operations

Maryland Anesthesiologist Assistants Act

This bill requires the Board of Physicians to license and regulate the practice of anesthesia care and establishes an Anesthesiologist Assistants Advisory Committee within the board.

Fiscal Summary

State Effect: No effect on revenues in FY 2010 as the board develops regulations. Special fund revenues increase beginning in FY 2011 to the extent that the board issues licenses to anesthesiologist assistants and approves delegation agreements for a fee, and collects any civil penalties. Special fund expenditures for the Department of Health and Mental Hygiene increase by \$46,400 in FY 2010 to develop regulations and handle inquiries regarding the licensure of anesthesiologist assistants and the process for delegation agreements. Future years reflect annualization and inflation. Potential minimal increase in general fund revenues and expenditures beginning in FY 2011 due to the bill’s criminal penalty provisions.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
GF Revenue	\$0	-	-	-	-
SF Revenue	\$0	-	-	-	-
GF Expenditure	\$0	-	-	-	-
SF Expenditure	\$46,400	\$57,100	\$59,900	\$62,900	\$66,000
Net Effect	(\$46,400)	(\$57,100)	(\$59,900)	(\$62,900)	(\$66,000)

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 criminal penalty provisions.

Small Business Effect: None.

Analysis

Bill Summary: With certain exceptions, an “anesthesiologist assistant” means an individual who is licensed to perform delegated medical acts under the supervision of an anesthesiologist. The bill specifies age, education, and other requirements that an applicant has to meet to be licensed. The bill also authorizes the board to issue temporary licenses – valid for 90 days – to applicants who meet specific qualifications and inactive licenses under certain circumstances; it also specifies a process and requirements for license renewal and reinstatement.

An anesthesiologist assistant may only practice under a delegation agreement executed by a supervising anesthesiologist and the anesthesiologist assistant that limits the scope of practice to specific medical acts outlined in the bill. Delegation agreements, which have to include information specified in the bill, must be approved by the board, and are valid for two years. The supervising anesthesiologist is responsible for overseeing medical acts performed by the anesthesiologist assistant, and is liable for any of the anesthesiologist assistant’s acts or omissions under his or her supervision and control. A supervising anesthesiologist may not delegate medical acts under a delegation agreement to more than four anesthesiologist assistants at one time.

The bill also specifies that an alternate supervising anesthesiologist, designated by the supervising anesthesiologist, may provide direct supervision of an anesthesiologist assistant, in accordance with the board approved delegation agreement, in the supervising anesthesiologist’s absence.

An anesthesiologist assistant who holds a temporary license may practice under a delegation agreement pending board approval if (1) the supervising anesthesiologist who executed the pending agreement has been previously approved by the board to supervise one or more anesthesiologist assistants in the practice setting for the same scope of practice in the pending agreement; and (2) the anesthesiologist assistant has been previously approved for the same scope of practice in the pending delegation agreement in a different practice setting. If the board modifies or denies the pending agreement, the board must notify the supervising anesthesiologist and anesthesiologist assistant of the cause for modification or disapproval. Upon receipt of notice of a denial, the anesthesiologist assistant must stop practicing immediately.

The board must set license and delegation agreement application fees so that funds generated approximate the cost of maintaining the program.

The committee, consisting of seven members appointed by the board, is charged with recommending regulations relating to the practice of anesthesia care, continuing education requirements, and whether to approve applications for licensure or delegation

agreements. Additionally the committee is charged with reporting any conduct of a supervising anesthesiologist or anesthesiologist assistant that warrants disciplinary action. The committee has to submit annual reports to the board, keep a record of its proceedings, and perform duties delegated to it by the board. If the board rejects or modifies any committee recommendations, it has to provide a written explanation of its reasons. Committee members serve staggered three-year terms.

The bill sets specific grounds and procedures for disciplinary action against a licensee or applicant, which include an opportunity for a hearing. Within five days of the termination of an anesthesiologist assistant related to a quality of care issue, the supervising anesthesiologist and the anesthesiologist assistant must report the termination to the board.

The bill also requires hospitals, related institutions, alternative health systems, and other employers to report to the board if an anesthesiologist assistant is limited, reduced, otherwise changed, or terminated for reasons that might be grounds for disciplinary action. The bill also describes circumstances under which a report does not have to be made. The board may impose a civil penalty of up to \$1,000 for failure to report; any such penalty is deposited in the general fund.

An individual who attempts, offers, or performs a medical act beyond his or her scope of practice and inconsistent with his or her delegation will have the license revoked.

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 \$5,000 and/or imprisonment for up to five years. In addition, a person who violates the scope of practice parameters of the bill is subject to a civil fine of up to \$5,000, imposed by the board, payable to the Board of Physicians Fund.

The bill subjects the new licensure program to periodic review under the Maryland Program Evaluation Act, consistent with other health occupations boards. An evaluation is required by July 1, 2015. If not reauthorized, the new license program terminates on July 1, 2015.

Current Law: The board, which operates through special funds, is responsible for the licensure and discipline of physicians and allied health professionals. Committees play a large role in the oversight of allied health professionals under the board's jurisdiction. For instance, the Physician Assistant Advisory Committee makes recommendations to the board concerning the approval, modification, or disapproval of an application for certification as a physician assistant and delegation agreements as well as regulations governing physician assistants.

The Maryland Program Evaluation Act requires the Department of Legislative Services to periodically evaluate certain State agencies according to a statutory schedule. The agencies subject to review are usually subject to termination; typically, the General Assembly must reauthorize them. The board is one of about 70 entities currently subject to evaluation.

An anesthesiologist is a licensed physician who has had specialized training in the field of anesthesiology, administers anesthesia on a regular basis, and devotes a substantial portion of the medical practice to the practice of anesthesiology.

Anesthetics have to be administered only by a qualified anesthesiologist, physician, or dentist qualified to administer anesthesia, certified or registered nurse anesthetist, or a licensed podiatrist.

A certified nurse anesthetist works with a collaborating physician, anesthesiologist, or dentist in delivering anesthesia care services to patients. Specifically, a nurse anesthetist may perform the following functions: perioperative assessment and management of patients requiring anesthesia services; administering anesthetics; management of fluids in intravenous therapy; and respiratory care.

Background: An anesthesiologist assistant works as a specialty physician assistant under the direction of a licensed anesthesiologist, and assists the anesthesiologist in developing and implementing the anesthesia care plan. The National Commission for Certification of Anesthesiologist Assistants certifies anesthesiologist assistants.

Anesthesiologist assistant education programs are post baccalaureate programs that typically range from 24 to 29 months. The Commission on Accreditation of Allied Health Education Programs (CAAHEP) accredits anesthesiologist assistant programs in the United States. To date, CAAHEP has accredited just five programs; none is located in Maryland. However, the board advises that the Johns Hopkins University may be developing a program.

While a few other States license anesthesiologist assistants, in Maryland, certified nurse anesthetists perform functions similar to those that would be performed by anesthesiologist assistants under the bill. However, the Board of Nursing, which regulates certified nurse anesthetists, advises that nurse anesthetists in the State are required to meet more stringent training and education requirements than those required for anesthesiologist assistants under the bill.

State Revenues: As the bill does not include a date by which anesthesiologist assistants have to be licensed in order to practice in the State, it is assumed that licensure must occur as soon after the bill's effective date of October 1, 2009 as possible. However,

given the level of detail necessary to set up a licensure system for anesthesiologist assistants, which includes delegation agreements as part of practice regulation, it is unlikely that the board can develop and approve regulations in time to accept licensure applications in fiscal 2010. In addition, the board advises that it does not know how many applicants will apply for licensure under the bill, and therefore cannot estimate the fee levels it must set to meet the bill's requirement to set fees that approximate program maintenance costs. Indeed, any applicants in the near-term will likely be from out-of-state since there are no anesthesiologist assistant education programs in Maryland.

Therefore, special fund revenues increase beginning in fiscal 2011 to the extent that the board issues licenses and approves delegation agreements for a fee. The board may have to adjust the fees depending on how many applications it receives. For instance, if the Johns Hopkins University develops a program that produces a large number of anesthesiologist assistant licensure applicants, the board will likely have to reduce its fees since a larger number of licensure applicants will generate greater fee revenue, possibly exceeding the board's program expenditures.

Special fund revenues may also increase beginning in fiscal 2011 to the extent that anesthesiologist assistants pay civil fines to the Board of Physicians Fund.

General fund revenues may increase minimally due to the payment of criminal penalties for violations of the bill's provisions as well as civil penalties for failure to report.

State Expenditures: Special fund expenditures increase by \$46,364 in fiscal 2010 for the board to hire one administrative officer to develop regulations and handle inquiries regarding the licensure of anesthesiologist assistants and the process for delegation agreements. The estimate includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1
Salary	\$40,786
Operating Expenses	1,283
Start-up Costs	<u>4,295</u>
Total FY 2010 Expenditures	\$46,364

Future year expenditures reflect a full salary with 4.4% annual increases, 3% employee turnover, and 1% increases in ongoing operating expenses.

Legislative Services advises that program staff may have to be adjusted to meet the volume of applications received by the board under the bill. If few applications are received under the bill, a full-time administrative officer may not be necessary to maintain the program once regulations are in place. Thus, the officer may have to work

half or even quarter time. However, if a large number of applications are received under the bill, as might be the case in future years if the Johns Hopkins University develops an anesthesiologist assistant education program and graduates a large number of qualified applicants, an office assistant may have to be hired to help the administrative officer process licensure applications and delegation agreements.

Additional Comments: Typically, programs subject to review under the Maryland Program Evaluation Act must have an evaluation completed the year *before* expiration. However, the bill requires review of the new licensure program to be completed the same year (2015) that it is scheduled to terminate.

Additional Information

Prior Introductions: None.

Cross File: SB 798 (Senator Conway) - Education, Health, and Environmental Affairs.

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

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