

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 982 (Delegates Morhaim and Hammen)
Health and Government Operations

Health Occupations - Licensure of Physician Assistants

This bill requires physician assistants to be licensed rather than certified by the Board of Physicians to practice in the State. In addition, the bill removes the requirement for a delegation agreement between a physician and physician assistant to be approved by the board before a physician assistant may practice under certain circumstances. The bill authorizes the board to enter the workplace of any licensed physician or licensed physician assistant or public premises if necessary to investigate any alleged practice or conduct subject to disciplinary action or respond to a complaint, and prohibits any person from denying or interfering with this entry. Violators are guilty of a misdemeanor and subject to fines. The bill alters the membership of the Physician Assistant Advisory Committee (PAAC) within the board, and repeals the Governor's authority to remove a committee member who has been absent from two successive committee meetings without adequate reason.

Fiscal Summary

State Effect: Minimal increase in general and special fund revenues beginning in FY 2010 due to the bill's penalty provisions. No effect on expenditures as the board can handle the bill's requirements with existing resources.

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: As an alternative to the licensure requirement to graduate from a board-approved physician assistant training program, the bill authorizes licensure for applicants who passed the physician assistant national certifying exam administered by the National Commission on Certification of Physician Assistants prior to 1986, maintained continuing education and recertification requirements, and have been in continuous practice since passing the exam.

The bill removes the board's authority to issue temporary certificates to physician assistants who have not passed the national certifying exam and does not replace it with a corresponding temporary license.

In addition, the bill limits a physician assistant's scope of practice to exclude radiography, nuclear medicine technology, radiation therapy, or radiology assistance.

The board may not require approval of a delegation agreement that includes advanced duties if an advanced duty will be performed in a hospital or ambulatory surgical facility:

- that is accredited by the Joint Commission on Accreditation of Healthcare Organizations;
- where the facility has reviewed the supervising physician and physician assistant's credentials; and
- advanced duties delegated to the physician assistant are reviewed and approved by a process approved by the health care facility's governing body.

If these requirements are not met, the delegation agreement requires board approval for the physician assistant to practice.

If a delegation agreement does *not* include advanced duties, a physician assistant may practice under the delegation agreement once the board has received a submitted delegation agreement. However, if the board later disapproves the delegation agreement, the physician assistant must immediately stop practicing.

The bill makes a terminology change as it relates to delegation agreements in that the physician involved in the agreement must be a primary supervising physician rather than a supervising physician. A primary supervising physician is defined as a physician who has delegated medical acts to one or more physician assistants by completing and

submitting to the board a delegation agreement that meets requirements outlined in the bill.

The bill specifies conditions under which the board may disapprove a delegation agreement and requires the board to notify the physician and physician assistant of any disapproval. A physician assistant who receives notice of disapproval must immediately stop practicing under the agreement or stop performing the disapproved function. The physician and physician assistant may appeal the board's decision to a hearing panel appointed by the board. However, the board has final approval authority.

A licensed physician assistant must produce a valid license and delegation agreement when requested by an existing or potential employer and notify the board of any change of address or name within 60 days. The board may impose an administrative penalty of \$100 on licensees that fail to comply with the notification requirement.

In the event of a of a primary supervising physician's sudden departure, incapacity, or death, a designated alternative supervising physician may assume the role of the primary supervising physician by submitting a new delegation agreement to the board within 15 days.

The board may impose civil penalties of up to \$100 per credit on licensed physician assistants who fail to obtain continuing education credits required by the board. The bill also alters the board's disciplinary process as it relates to physician assistants, authorizes the board to impose a fine instead of or in addition to taking specified disciplinary action, and requires the board to pay any resulting fines to the State general fund. The board is authorized to appeal any judicial decision that overturns the board's disciplinary actions against a physician's assistant.

With certain exceptions outlined in the bill, a hospital or other institution employing a physician assistant must report to the board if the institution limited, reduced, otherwise changed, or terminated a licensed physician assistant for any reason that might be grounds for disciplinary action. The bill also specifies requirements that must be met by a physician assistant, his or her employer, and a drug and alcohol treatment program if a physician assistant enters or considers entering an alcohol or drug treatment program. Violators are subject to civil penalties of up to \$1,000, payable to the general fund.

A licensed physician who employs or supervises an unlicensed physician assistant, and an institution that employs an unlicensed physician assistant, is subject to a civil penalty of up to \$1,000, payable to the Board of Physicians Fund.

Current Law: To qualify for a certificate, a physician assistant must have graduated from a physician assistant training program, pass a board approved national certifying

exam, and have a bachelor's degree or its equivalent if he or she graduated from a physician assistant training program after October 1, 2003. A physician assistant may not practice within the scope of any of the following health occupations: nursing, optometry, physical therapy, or psychology.

A physician assistant may practice in accordance with a pending delegation agreement if (1) the physician assistant receives a temporary practice letter from the board; (2) the supervising physician has been previously approved to supervise one or more physician assistants in the proposed practice setting for the same scope of practice; and (3) the physician assistant has been previously approved for the same scope of practice in a different practice setting. A delegation agreement is "pending" if it has been executed and submitted to PAAC for review but PAAC has not made a recommendation to the board; or the board has not made a final decision regarding the delegation agreement.

If PAAC recommends a denial of the pending delegation agreement or the board denies the pending delegation agreement, the physician assistant may no longer practice in accordance with the delegation agreement. Should PAAC make such a recommendation, the physician and physician assistant must be given notice.

Delegation agreements between a supervisory physician and a physician assistant have to contain a description prepared by the supervising physician of the process by which the physician assistant's practice is reviewed. The process must meet specified standards.

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, PAAC 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.

Certified physician assistants who operate outside of their scope of practice, and persons who operate without a certificate are guilty of a misdemeanor and on conviction are subject to fines of up to \$5,000 and/or imprisonment for up to five years. The board may also impose civil penalties payable to the Board of Physicians Fund.

Background: The board advises there are approximately 2,000 physician assistants in the State.

The board advises that "advanced duties" are functions beyond what is generally included in an education program required for a physician assistant to practice in the State. They are not defined either in statute or regulations.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General, Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Office of Administrative Hearings, Department of Legislative Services

Fiscal Note History: First Reader - March 17, 2009
ncs/mcr

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