

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 870

(Delegate Reznik, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

State Board of Physicians - Offices or Facilities for Performing Cosmetic Surgical
Procedures

This bill authorizes the State Board of Physicians to take disciplinary action against a licensed physician who performs a cosmetic surgical procedure in an office or facility that is not accredited by specified organizations or certified to participate in the Medicare program.

Fiscal Summary

State Effect: The bill is not expected to materially affect governmental finances.

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: A “cosmetic surgical procedure” is the use of surgical services to reshape the structure of a human body in order to change the appearance of an individual. Cosmetic surgery does not include a procedure done under local anesthesia or mild sedation or liposuction that removes less than 1,000 cubic centimeters of aspirate. Mild sedation is a drug-induced state during which a patient is able to respond to verbal commands, a patient’s ventilatory and cardiovascular functions are not affected, and a patient’s cognitive function and coordination may be impaired.

The board may seek disciplinary action against a physician who performs a cosmetic surgical procedure in an office or facility that is not accredited by the American

Association for Accreditation of Ambulatory Surgical Facilities (AAAASF), the Accreditation Association for Ambulatory Health Care (AAAHC), or the Joint Commission on the Accreditation of Health Care Organizations (JCAHCO).

Current Law: Subject to statutory provisions requiring hearings, and the affirmative vote of a majority of a quorum, the State Board of Physicians may reprimand a licensee, place any licensee on probation, or suspend or revoke a license if a licensee is found guilty of 40 specified offenses.

Cosmetic Surgery

Cosmetic surgery is regulated under the Code of Maryland Regulations (COMAR) provisions applicable to the Department of Health and Mental Hygiene (DHMH). Cosmetic surgery is defined as surgery that can be expected to improve a patient's physical appearance but does not restore or materially improve a body function. Both inpatient and outpatient cosmetic surgery procedures require preauthorization. Preauthorization is waived when the service is covered and approved by Medicare.

Certified Medicare Facilities

Medicare requires that certain providers be certified under the federal Medicare program. The certification is required before a facility may provide services to Medicare beneficiaries and receive payment. The following facilities must seek and obtain certification from the Centers for Medicare and Medicaid Services (CMS):

- home health care agencies;
- skilled nursing facilities;
- hospice providers;
- dialysis centers;
- hospitals;
- portable x-ray suppliers;
- outpatient physical/occupational/speech providers;
- rural health centers;
- comprehensive outpatient rehabilitation facilities;
- ambulatory surgery centers;
- organ procurement organizations;
- community mental health centers; and
- federally qualified health centers.

CMS prohibits payment to be made to any of these facilities if they have failed to gain Medicare certification, except in the case of certain emergency situations.

Background: AAAASF, AAAHC, and JCAHCO are private nonprofit agencies that accredit hospitals and other health care facilities in the United States.

Small Business Effect: DHMH advises over 300 facilities perform cosmetic surgeries in the State. It is unknown how many of these facilities are considered small businesses and would be required to obtain accreditation or certification under the bill. Likewise, it is unknown how many physician's offices would be affected under the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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