

Department of Legislative Services
 Maryland General Assembly
 2012 Session

FISCAL AND POLICY NOTE

Senate Bill 530 (Senator Peters)
 Education, Health, and Environmental Affairs

Maryland Kinesiology Act

This bill requires the State Board of Physicians to license and regulate the practice of kinesiotherapy and establishes a Kinesiotherapy Advisory Committee within the board. By October 1, 2013, an individual must be licensed in order to practice kinesiotherapy in the State, with some exceptions.

The bill takes effect October 1, 2012.

Fiscal Summary

State Effect: Special fund expenditures for the State Board of Physicians increase by \$35,800 in FY 2013, which reflects the bill’s October 1, 2012 effective date, to hire one part-time program manager to develop regulations, establish a Kinesiotherapy Advisory Committee, and prepare to issue kinesiotherapist licenses. Future year special fund expenditures reflect a reduction in personnel time assigned to the committee beginning October 1, 2013, as well as annualization and inflation. Special fund revenues increase by an indeterminate amount beginning in FY 2014 to reflect fees paid by newly licensed kinesiotherapists. Special fund revenues may also increase minimally due to the bill’s civil penalties. The bill’s criminal penalty provisions are not expected to materially impact general fund revenues or expenditures.

| (in dollars) | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 |
|----------------|------------|------------|------------|------------|------------|
| SF Revenue | \$0 | - | - | - | - |
| SF Expenditure | \$35,800 | \$24,600 | \$19,500 | \$20,300 | \$21,400 |
| Net Effect | (\$35,800) | (\$24,600) | (\$19,500) | (\$20,300) | (\$21,400) |

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

Local Effect: The bill's criminal penalty provisions are not expected to materially affect local government finances or operations.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: "Practice kinesiotherapy" means the application of scientifically based exercise principles adapted to enhance the strength, endurance, and mobility of individuals with functional limitations or individuals requiring extended physical reconditioning.

To qualify for a license, an individual must be of good moral character and be at least 18 years old. An individual must (1) submit evidence of graduation from a program of kinesiotherapy accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP); (2) have passed an examination approved by the board; and (3) meet any other educational or clinical requirements established by the committee and approved by the board.

The bill requires the board to issue licenses and set fees to issue and renew such licenses. Fees charged must be set so that the funds generated approximate the costs of maintaining the program. The bill also specifies requirements for licensure renewal and reinstatement.

The Kinesiotherapy Advisory Committee, consisting of five members appointed by the board, is charged with developing and recommending to the board regulations, a code of ethics, recommendations concerning the practice of kinesiotherapy including standards of care, and continuing education requirements. The advisory committee must keep a record of its proceedings. Advisory 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. Individuals aggrieved by a decision of the board may seek a direct judicial appeal. An order of the board may not be stayed pending judicial review.

The bill requires hospitals, related institutions, alternative health systems, and other employers to report to the board if a licensed kinesiotherapist is limited, reduced, otherwise changed, or terminated for reasons that might be grounds for disciplinary action. The bill also specifies 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.

A licensed kinesiologist must notify the board in writing of a change in name or address within 60 days after the change. A licensee who fails to comply is subject to an administrative penalty of \$100. 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 and/or imprisonment for up to one year. In addition, an individual who violates the bill is subject to a civil fine of up to \$5,000, payable to the Board of Physicians Fund.

The bill subjects the new licensure program to periodic review under the Maryland Program Evaluation Act, as with other health occupations boards, establishing an evaluation date of July 1, 2021, and a termination date of July 1, 2022.

Current Law: Maryland law does not specifically address kinesiologists. Individual health care providers are regulated under their respective health occupations boards.

The State Board of Physicians, 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.

Background: According to the American Kinesiotherapy Association (AKTA), kinesiologists provide sub-acute or post-acute rehabilitative therapy focusing on therapeutic exercise, reconditioning, and physical education. Therapeutic exercises are intended to enhance the strength, mobility, and endurance of functionally limited patients or those requiring long-term reconditioning. Developed during World War II, kinesiology originally helped wounded soldiers return to their units quickly and at full functionality. Registered kinesiologists are most commonly employed at Veterans Affairs facilities, but they also work in hospital, clinic, and academic health settings.

Nationally, the primary credential for kinesiologists is registration by the Council on Professional Standards for Kinesiotherapy (COPS-KT). To qualify, an individual must (1) be a graduate of a CAAHEP accredited kinesiotherapy program; (2) satisfy minimum core course requirements with a grade point average of 2.5 on a 4.0 scale; (3) provide a written letter of sponsorship from a registered kinesiologist documenting at least 1,000 hours of clinical experience; and (4) pass a written examination. Nationally, there are 341 registered kinesiologists in good standing with COPS-KT. There are

approximately nine registered kinesiotherapists in Maryland; however there are likely many more kinesiotherapists who are not registered but reside or work in Maryland.

To date, no state licenses kinesiotherapists. However, kinesiotherapy is recognized nationally by CAAHEP as an allied health profession and has been assigned a revenue code by the National Uniform Billing Committee. According to AKTA, without licensure it is difficult for kinesiotherapists to find work in the private sector due to the need to be licensed or credentialed in order to bill insurance. Despite having a particular focus, kinesiotherapists share their scope of practice with other regulated professionals including physical therapists, athletic trainers, and occupational therapists.

State Revenues: Special fund revenues for the State Board of Physicians increase beginning in fiscal 2014 from licensure fees paid by kinesiotherapists. The exact amount of any revenue cannot be reliably estimated at this time as it is unknown how many individuals may seek licensure under the bill. As the total number of registered kinesiotherapists nationally is 341, Legislative Services assumes that the number of Maryland licensees will be minimal. According to the board, kinesiotherapists will pay a \$200 fee.

The bill requires that revenues approximate the cost of maintaining the new program. However, it is the experience of the board that new allied health programs do not generate enough revenue to cover costs for a number of years, thus any revenue gap is borne from other board revenues or fund balance.

State Expenditures: Special fund expenditures for the board increase by \$35,750 in fiscal 2013 to develop and implement a kinesiotherapist licensing program. This includes a salary for one part-time (50%) program manager, fringe benefits, one-time start-up costs, and ongoing operating expenses. Due to the low number of kinesiotherapists anticipated to seek licensure, once the licensing program and advisory committee are operational, Legislative Services assumes that this position will become only 20% time, beginning approximately October 1, 2013.

| | <u>FY 2013</u> | <u>FY 2014</u> |
|---------------------------------|-----------------------|-----------------------|
| New Permanent Position | 0.5 | (-0.3) |
| Salary and Fringe Benefits | \$29,517 | \$22,067 |
| One-time Start-up Costs | 4,335 | 0 |
| Operating Expenses | <u>1,898</u> | <u>2,555</u> |
| Total Board Expenditures | \$35,750 | \$24,622 |

Legislative Services notes that the anticipated revenues from licensed kinesiotherapists will not be sufficient to cover these projected costs and the board may need to cross subsidize.

Future year expenditures reflect a part-time salary (20%) with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Additional Information

Prior Introductions: None.

Cross File: HB 763 (Delegate Holmes) - Health and Government Operations.

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

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