HB 1151

Department of Legislative Services

Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 1151 (Delegate A. Kelly, *et al.*)
Health and Government Operations

State Board of Nursing - Certified Nurse-Midwives - Standards and Practice Guidelines

This bill prohibits the State Board of Nursing from requiring a certified nurse-midwife (CNM) to have written documentation of consultation, collaboration, or referral with another health care practitioner as a condition of licensure. Instead, a certified nurse-midwife must comply with the standards for the practice of nurse midwifery established by the American College of Nurse-Midwives (ACNM) or any other organization approved by the board. The board, in the course of an investigation, may require a CNM to provide a copy of the nurse-midwife's clinical practice guidelines.

Fiscal Summary

State Effect: Any changes in board regulations or operations as a result of the bill are anticipated to be minimal and can be handled within existing budgeted resources.

Local Effect: None.

Small Business Effect: Potential meaningful. CNMs will no longer be required to have a collaborative plan to practice nurse midwifery in Maryland.

Analysis

Current Law: The State Board of Nursing provides advance practice certification to nurse-midwives, who must also be licensed registered nurses. Under board regulations, an applicant for certification as a nurse-midwife must hold a current license to practice registered nursing in Maryland, hold current certification as a nurse-midwife from the American Midwifery Certification Board or any other certifying body approved by the

board, and submit an affidavit that the applicant is in compliance at all times with specified clinical practice guidelines.

CNMs must have a collaborative plan approved by the board that includes the name of the collaborating physician and an attestation by the CNM that the patient has agreed to the collaborating physician and the physician has agreed to collaborate in the care of the patient. The plan must have attached to it an affidavit that the CNM has developed clinical practice guidelines for the practice of nurse midwifery that fully describes delegated medical functions; parameters of service; a comprehensive plan for transfer of care when needed; practice guidelines for every specialty area of practice; appropriate interventions including treatment, medication, and devices; and categories of substances selected from the approved formulary that may be prescribed and dispensed by the CNM. If a CNM will perform deliveries, the CNM must submit to the board a collaborative plan with a physician who has an active unencumbered Maryland license and unrestricted privileges to practice obstetrics and gynecology in a hospital in the geographic area in which the CNM will practice.

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Background: In 2012, DHMH convened a Midwives Workgroup to, among other things, analyze the shortage of CNMs in Maryland and barriers to nurse-midwifery practice. The workgroup's January 2013 report notes that the number of births attended by CNMs or other midwives declined by 12% from 5,954 births in 1998 to 5,379 births in 2010. The board indicates that there are 214 CNMs licensed to practice in Maryland. However, it is estimated that fewer than half of those CNMs are actually practicing full-scope midwifery (independently providing antepartum, intrapartum, postpartum, or gynecologic or primary care for women). Many CNMs in Maryland are working in outpatient gynecology offices, local health departments, or family planning clinics; in teaching, administration, or research positions; or as "physician extenders" by performing prenatal care in a physician-owned practice where they are not allowed to attend deliveries. Only two or three practices in Maryland are owned and operated by CNMs.

The report also noted that, although CNMs are no longer required to have a physician sign a collaborative agreement to provide clinical support to CNM-attended births, workgroup members reported that the requirement that a CNM provide the board with a collaborative plan presents a significant challenge as physicians do not get paid to collaborate without a formal referral, physicians fear vicarious liability (*i.e.*, they could be sued for issues arising from management decisions made by a CNM), and there are no clinical practice guidelines for receiving transferred patients.

As a result of the report's findings, DHMH recommended further exploration of the barriers to training and practice for CNMs in Maryland. While the workgroup *did not* reach consensus, the report provides a wide range of options regarding the various charges of the workgroup. Among many others, the options presented in the report included eliminating the board's regulation requiring submission of a collaborative plan between a physician and a midwife or any other barrier to independent practice and instead adopting regulations similar to those in the District of Columbia, which require a CNM to provide proof of education, certification, and attestation of intention to practice according to ACNM's *Standards for the Practice of Midwifery*.

Additional Information

Prior Introductions: None.

Cross File: SB 760 (Senators Montgomery and Benson) - Education, Health, and Environmental Affairs.

Information Source(s): American College of Nurse-Midwives, Department of Health and Mental Hygiene, Department of Legislative Services

Fiscal Note History: First Reader - March 4, 2013
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