

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 879 (Delegate Hubbard)
Health and Government Operations Education, Health, and Environmental Affairs

Health Occupations - Polysomnographic Technologists - Licensure and Discipline

This bill alters reinstatement provisions and adds a new ground for disciplinary action for polysomnographic technologists licensed by the State Board of Physicians (MBP). A licensed physician is prohibited from employing or supervising an individual practicing polysomnography without a license; likewise, a hospital, related institution, alternative health system, or employer is prohibited from employing an individual practicing polysomnography without a license. The board may impose a civil penalty of up to \$5,000 for a violation of these prohibitions, payable to the general fund. The bill also expands the current civil penalty of up to \$5,000 for a violation of the Maryland Polysomnography Act to apply to any violation of the Act rather than only to misrepresentation. This penalty is payable to the State Board of Physicians Fund.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues from civil penalties. Potential minimal increase in special fund revenues from expansion of the application of the board's existing civil penalty authority. No effect on expenditures.

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The bill adds failure to cooperate with a lawful investigation conducted by the board as a new ground for disciplinary action against polysomnographic technologists. The requirement that the board place a licensed polysomnographic

technologist on inactive status under specified circumstances and the authorization for the board to reinstate the license of a polysomnographic technologist who has not been put on inactive status and fails to renew is repealed. The bill also repeals the *requirement* that MBP reinstate the license of a polysomnographic technologist who has not placed his or her license on inactive status or renewed his or her license and instead *authorizes* MBP to reinstate the license if the polysomnographic technologist applies for reinstatement and meets any other requirements established by regulation.

Current Law: MBP must place a licensed polysomnographic technologist on inactive status if the licensee submits to the board an application for inactive status and the inactive status fee. MBP must issue a license to an individual who is on inactive status if the individual complies with the renewal requirements that exist at the time the individual changes from inactive to active status. MBP may reinstate the license of a polysomnographic technologist who has not been put on inactive status, who has failed to renew the license, and who applies for reinstatement more than 30 days after the license has expired if the polysomnographic technologist (1) meets specified renewal requirements; (2) pays the reinstatement fee; and (3) meets any other requirements established by regulation. MBP must reinstate the license of a polysomnographic technologist who has not placed the license on an inactive status and who has failed to renew the license for any reason if the polysomnographic technologist (1) applies for reinstatement within 30 days after the date the license expires; (2) meets specified renewal requirements; and (3) pays the reinstatement fee.

Subject to hearing provisions, MBP may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the applicant or licensee violates any 1 of 27 grounds for disciplinary action. A person who violates any provision of the Maryland Polysomnography Act 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.

Unless authorized to practice polysomnography, a person may not represent to the public that the person is authorized to practice polysomnography nor may he or she use the abbreviation "P.S.G." or any other words, letters, or symbols with the intent to represent that the person practices polysomnography. Any person who violates the prohibition against misrepresentation is subject to a civil fine of up to \$5,000 payable to the Board of Physicians Fund.

Background: MBP has regulatory authority over physicians, physician assistants, radiographers, radiation therapists, nuclear medicine technologists, radiologist assistants, respiratory care practitioners, polysomnographic technologists, athletic trainers, and perfusionists. According to MBP, the Maryland Polysomnography Act is currently inconsistent with the statutes governing other allied health professions regulated by the board, and the bill is intended to make the statutes consistent.

None of the other allied health professions has inactive status. All of the other allied health professions have failure to cooperate with a lawful investigation conducted by the board as a ground for disciplinary action. Each statute for all other allied health professions also specifies that any person who violates a provision of that respective practice act is subject to a civil fine of up to \$5,000 payable to the State Board of Physicians fund.

For each of the other allied health professions, the board is *required* to reinstate a license of an individual who has failed to renew if he or she meets specified requirements and submits an application and reinstatement fee rather than *authorized* as proposed under the bill. The statutes for all but perfusionists prohibit employment of an unlicensed individual. However, the fine for violation of the prohibition is \$1,000 rather than \$5,000 as proposed in the bill.

Additional Information

Prior Introductions: None.

Cross File: SB 951 (Senator Benson) - Education, Health, and Environmental Affairs.

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

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Analysis by: Jennifer B. Chasse

Direct Inquiries to:
(410) 946-5510
(301) 970-5510