

Department of Legislative Services
 Maryland General Assembly
 2014 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 854

(Senator Conway)

Education, Health, and Environmental Affairs

Health and Government Operations

State Board of Pharmacy - Registered Pharmacy Interns

This bill requires an individual to be registered and approved by the State Board of Pharmacy as a registered pharmacy intern before the individual may practice pharmacy under the direct supervision of a licensed pharmacist. The bill establishes qualifications and procedures for registration and biennial renewal. An applicant must request a State criminal history records check (CHRC). A licensed pharmacist may not directly supervise more than two registered pharmacy interns at one time. A registered pharmacy intern may administer vaccinations in accordance with regulations adopted by the board. A registered pharmacy intern may not delegate a pharmacy act, perform a final verification of a prescription drug or device before dispensing, or perform other duties prohibited by board regulations.

Fiscal Summary

State Effect: Special fund revenues for the State Board of Pharmacy increase by an estimated \$13,500 in FY 2015 from registration fees. Special fund revenues continue to increase in future years from new and renewal registrations. The exact amount of these revenues cannot be reliably estimated at this time. Issuance of registrations and associated administrative duties can be handled by additional board staff, as provided in the Governor’s proposed FY 2015 budget for another purpose. Potential minimal increase in general fund revenues due to the bill’s criminal penalty provisions. Potential minimal increase in special fund revenues for the board due to the authority to issue civil fines on registered pharmacy interns.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
SF Revenue	\$13,500	-	-	-	-
Expenditure	0	0	0	0	0
Net Effect	\$13,500	\$0	\$0	\$0	\$0

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The definition of “direct supervision” is altered to mean that a licensed pharmacist is physically available, *notwithstanding appropriate breaks*, on-site *and in the prescription area or in an area where pharmacy services are provided* to supervise the *practice of pharmacy and delegated pharmacy acts*.

A registered pharmacy intern practicing under the direct supervision of a licensed pharmacist is exempt from the requirement to be licensed before the individual may practice pharmacy in the State. A pharmacy student performing delegated pharmacy acts under the direct supervision of a licensed pharmacist as well as an applicant for a license to practice pharmacy under the direct supervision of a licensed pharmacist is no longer exempt from the requirement to be registered and approved by the board as a pharmacy technician, but instead is required to be registered and approved as a registered pharmacy intern.

To qualify as a registered pharmacy intern, an individual must (1) be currently enrolled in and have completed one year of professional pharmacy education in an accredited doctor of pharmacy program; (2) be currently enrolled in and have completed one year of professional pharmacy education in a doctor of pharmacy program that is under accreditation review; (3) have graduated from an accredited doctor of pharmacy program and applied for licensure with the board; or (4) be a graduate of a foreign school of pharmacy who has established educational equivalency and passed an examination of oral English.

An applicant must apply to the Criminal Justice Information System (CJIS) for a State CHRC. An applicant must submit two sets of fingerprints taken on the required forms and the State criminal history fee. CJIS must forward to the board and to the applicant the criminal history record information of the applicant. Information obtained from CJIS must be confidential, may not be disseminated, and may be used only for registration purposes. The subject of a CHRC may contest the contents of the printed statement issued by CJIS.

The board must register a pharmacy intern who meets the specified requirements. The board may not approve an application until the State CHRC is completed. The board may set reasonable fees for the issuance and renewal of registrations and other services. Fees charged must be set as to approximate the cost of registering pharmacy interns. The

board must keep a record of each registered pharmacy intern and the facts concerning the issuance of that pharmacy intern's registration.

Each registered pharmacy intern must display his or her registration in the office or place of business in which he or she is practicing or have the registration available for viewing. A registered pharmacy intern must wear identification that conspicuously identifies him or her as a registered pharmacy intern.

The bill expands the board's disciplinary authority over *licensed pharmacists* by amending existing grounds for discipline to include (1) aiding an unauthorized individual to practice pharmacy or to represent that the individual is a registered pharmacy intern and (2) agreeing with a registered pharmacy intern to prepare or dispense a secret formula prescription. The bill also adds failure to appropriately supervise a registered pharmacy intern as a new ground for discipline.

The board may direct a registered pharmacy intern to submit to a competency examination (as can currently be required of licensed pharmacists and registered pharmacy technicians). The board is authorized to deny a registration or reprimand, place on probation, or suspend or revoke a registration if the applicant or registrant violates any 1 of 22 grounds for disciplinary action. A registered pharmacy intern must notify the board within seven days of any plea of guilty for, conviction of, or entry of a plea of *nolo contendere* for a crime of moral turpitude. The board is authorized to impose a civil penalty of up to \$2,500 on a registered pharmacy intern instead of or in addition to taking disciplinary action. The board must adopt regulations for the imposition of such penalties. Penalties must be paid into the general fund.

An individual may not practice, attempt to practice, or offer to practice as a registered pharmacy intern nor represent to the public that the individual is registered to practice as a registered pharmacy intern unless the individual is registered with the board. A violator is guilty of a misdemeanor and on conviction subject to a fine of up to \$1,000, imprisonment for up to one year, or both. A violator is also subject to a civil fine of up to \$50,000 to be assessed by the board. Such penalties are payable to the State Board of Pharmacy Fund.

A pharmacy permit holder may not participate in any activity that is a ground for board action against a registered pharmacy intern nor allow an authorized individual to represent that the individual is a registered pharmacy intern.

The definition of "practice pharmacy" is amended to reflect the expanded scope of practice of pharmacists with respect to administration of vaccinations as enacted under Chapters 255 and 256 of 2013. The current exemption from the requirement to obtain a pharmacy permit for the University of Maryland School of Pharmacy for nuclear

pharmacy and dental pharmacy experimental and teaching programs is amended to include *a school of pharmacy located in the State, accredited by the Accreditation Council for Pharmacy Education.*

Current Law: An individual must be licensed by the board before the individual may practice pharmacy in the State. A pharmacy student practicing in an experiential learning program under the supervision of a licensed pharmacist is exempt from this requirement.

An individual must be registered and approved by the board as a pharmacy technician before the individual may perform delegated pharmacy acts. The following individuals are exempt from this registration requirement: (1) a pharmacy student performing delegated pharmacy acts under the direct supervision of a licensed pharmacist and in accordance with board regulations; (2) a pharmacy technician trainee under the direct supervision of a licensed pharmacist, provided that the individual does not perform delegated pharmacy acts for more than six months; and (3) an applicant for a license to practice pharmacy under the direct supervision of a licensed pharmacist, provided that the applicant does not perform delegated pharmacy acts for more than 10 months.

The board may deny a license, reprimand any licensee, place any licensee on probation, or suspend or revoke a license of a pharmacist on any 1 of 32 disciplinary grounds, including aiding an unauthorized individual to practice pharmacy or to represent that the individual is a pharmacist or a registered pharmacy technician and agreeing with an authorized prescriber or registered pharmacy technician to prepare or dispense a secret formula prescription.

In investigating an allegation against a pharmacist or pharmacy technician, the board may require a licensee or registrant to submit to a competency examination if the board has reason to believe that the licensee or registrant may cause harm to a person affected by the individual's practice. An individual required to submit to an examination must be deemed to have consented to the examination and waived any claim or privilege as to the examination report. The board must pay the cost of the examination. The refusal of an individual to submit to the examination is *prima facie* evidence of the individual's inability to practice competently, unless the board finds that the refusal was beyond the control of the individual.

The practice of pharmacy includes administering vaccinations under specified circumstances. Chapters 255 and 256 of 2013 expanded the authority of pharmacists to administer vaccinations. For individuals age 11 to 17, a pharmacist may administer a vaccination listed in the U.S. Centers for Disease Control and Prevention's (CDC) recommended immunization schedule if the individual has a prescription from an authorized prescriber. For adults, a pharmacist may administer a vaccination listed in CDC's recommended immunization schedule or *Health Information for International*

Travel if the vaccination is administered under a written protocol that (1) is vaccine specific and (2) meets criteria established in regulation by the Department of Health and Mental Hygiene, in consultation with the boards of pharmacy, physicians, and nursing. A prescription is not required to administer these vaccinations to an individual age 18 or older.

Background: Currently, if a pharmacy student wants to work in a pharmacy outside of his or her clinical school rotations, the student must register with the board for a student waiver. This is a one-time waiver (with a fee of \$45) that authorizes the student to work as a registered pharmacy technician only while enrolled in pharmacy school. An individual with a student waiver must send an affidavit to the board annually attesting that he or she remains enrolled in pharmacy school in order to maintain the waiver status. Upon graduation, a pharmacy school graduate must apply as a registered pharmacy technician in order to continue working in a pharmacy while qualifying for a pharmacist license. An individual working under a student waiver is limited to performing only such delegated pharmacy acts as a registered pharmacy technician is authorized to perform. Approximately 300 individuals have student waivers from the board.

According to the board, the new registered pharmacy intern credential will replace the student waiver and allow pharmacy students to practice pharmacy under the direct supervision of a licensed pharmacist rather than be limited to delegated pharmacy acts. A pharmacy student could work as a registered pharmacy intern beginning in his or her second year of pharmacy school and renew the registration once to cover the full four years of pharmacy school. A graduate of pharmacy school, including a foreign graduate, would only be able to renew the registered pharmacy intern credential once.

State Revenues: Special fund revenues for the State Board of Pharmacy increase by an estimated \$13,500 in fiscal 2015 from fees paid by registered pharmacy interns. The board anticipates at least 300 applicants for pharmacy intern registrations, which reflects the estimated number of individuals currently working under a student waiver. The board proposes a \$45 biennial fee per registration. As the student waiver fee (also \$45) is paid on a one-time only basis at the time the waiver is granted, the registration fee represents additional special fund revenues of approximately \$13,500. An unknown number of additional individuals will seek registration, including pharmacy school graduates and foreign graduates who would otherwise apply for a pharmacy technician registration at the same biennial renewal fee. Thus, for these individuals there is no net impact on board revenues.

Special fund revenues increase by a minimal amount in future years from new and renewal fees paid by registered pharmacy interns. Only pharmacy students are able to renew their registration, and it may only be renewed once. Following graduation, many of these individuals will seek licensure as a pharmacist in Maryland (approximately

150 per year) or move out of state. The exact amount of special fund revenues cannot be reliably estimated at this time but is anticipated to be minimal.

State Expenditures: Issuance of registrations and associated administrative duties can be handled using budgeted resources, since the fiscal 2015 budget includes seven new positions for the board to implement regulation of sterile compounding pharmacies per Chapter 397 of 2013. According to the board, an estimated one-quarter of two of these positions (the office services clerk and licensing specialist) can assist with implementation of this bill.

Additional Comments: Each applicant for a pharmacy intern registration is required to pay \$38 for a State CHRC including a \$20 fingerprinting fee and an \$18 fee to CJIS. CJIS collects, manages, and disseminates Maryland Criminal History Record Information for criminal justice and noncriminal justice (*e.g.*, employment and licensing) purposes.

Additional Information

Prior Introductions: None.

Cross File: HB 1218 (Delegate Cullison, *et al.*) - Health and Government Operations.

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

Fiscal Note History: First Reader - February 19, 2014
ncs/ljm Revised - Enrolled Bill/Updated Budget Information - April 24, 2014

Analysis by: Jennifer B. Chasse

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