

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 871 (Senator Mathias)
Education, Health, and Environmental Affairs

State Board of Physicians - Discipline for Alternative Treatments - Prohibition

This bill prohibits a licensed physician from being subject to an investigation or disciplinary action by the State Board of Physicians (MBP) based solely on the fact that the physician recommended or provided an “alternative treatment” to an individual.

Fiscal Summary

State Effect: Potential minimal decrease in special fund expenditures. Potential minimal decrease in general fund revenues.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: “Alternative treatment” means a treatment plan that is not universally accepted by the medical profession if the plan is based on the observation of symptoms and diagnosis of an individual by a licensed physician as documented in the individual’s medical record.

The bill does not prohibit MBP from denying a license, or investigating or disciplining a licensed physician, for reasons related to the recommendation or provision of the alternative treatment, such as for recommending inappropriate treatment, failing to monitor the individual’s ongoing care, or recordkeeping issues.

Current Law: A disciplinary panel of MBP, on the affirmative vote of a majority of the quorum of the panel, may reprimand a licensed physician, place a licensed physician on probation, or suspend or revoke a license if a licensed physician violates any 1 of 43 statutory disciplinary grounds, including failure to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State.

Once a complaint is received, MBP staff conduct a preliminary investigation of the complaint, which includes sending a copy of the complaint to the respondent with a request for a response. The results of the preliminary investigation are then presented to the panel, which may decide to close the case with no action, close the case with an advisory letter (informal, nonpublic action), or instruct board staff to conduct a full investigation. During the full investigation, the panel may also refer the case for peer review (through its contracted peer review entity) to solicit additional expertise; cases involving standard of care require two peer reviews. The respondent is sent a copy of the peer review results and may submit a response before the case proceeds through the disciplinary process.

State Fiscal Effect: MBP advises that the bill does not materially affect board finances or operations, as it does not investigate a physician solely based on the physician's recommendation or provision of an alternative treatment. The Department of Legislative Services advises that, to the extent the bill results in fewer or shortened disciplinary proceedings by MBP, special fund expenditures may decrease minimally. General fund revenues may also decrease minimally, to the extent the bill results in the less frequent imposition of disciplinary fines.

Small Business Effect: The bill explicitly exempts licensed physicians who offer alternative treatments from disciplinary action by MBP under specified circumstances, which may encourage the provision of such treatments.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Health; Department of Legislative Services

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nb/jc

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