

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

Senate Bill 763

(Senator Lam)

Education, Health, and Environmental Affairs

Health and Government Operations

State Board of Physicians - Genetic Counselors - Licensing

This bill requires individuals, on or after October 1, 2022, to be licensed to “practice genetic counseling” by the State Board of Physicians (MBP) before they may practice genetic counseling in the State. The bill also establishes a Genetic Counseling Advisory Committee within MBP. MBP must adopt regulations for the licensure and practice of genetic counseling.

Fiscal Summary

State Effect: Special fund expenditures for MBP increase by \$58,400 in FY 2021 to establish the licensure program and staff the advisory committee. Future expenditures reflect annualization and, beginning in FY 2023, additional contractual services. Beginning in FY 2023, special fund revenues increase from new licensing fee revenues (assumed to be sufficient to cover estimated expenditures going forward) and any civil fines assessed under the bill. General fund revenues may increase by a minimal amount from criminal and civil penalties, beginning in FY 2023.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
GF Revenue	\$0	\$0	-	-	-
SF Revenue	\$0	\$0	-	-	-
SF Expenditure	\$58,400	\$69,000	\$83,700	\$90,400	\$92,900
Net Effect	(\$58,400)	(\$69,000)	(\$83,700)	(\$90,400)	(\$92,900)

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

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary: “Practice genetic counseling” means (1) obtaining and evaluating the medical histories of a patient and the patient’s family members for a genetic assessment; (2) discussing the features, natural history, means of diagnosis, genetic and environmental factors, and management of risk for genetic or medical conditions or diseases; (3) identifying, ordering, and coordinating genetic laboratory tests and other diagnostic studies, as appropriate, for purposes of a genetic assessment; (4) using medical histories and the results of genetic laboratory tests and other diagnostic studies for a genetic assessment; (5) explaining the clinical implications of genetic laboratory tests and other diagnostic studies and the results of the tests and studies and communicating the risk factors for genetic or medical conditions or diseases identified by a genetic assessment; (6) evaluating the responses of a patient and the patient’s family members to the results of a genetic assessment and providing counseling and anticipatory guidance for a genetic or medical condition or disease; (7) identifying and using specified community resources for a genetic or medical condition or disease; and (8) providing written documentation of medical, genetic, and counseling information for a patient, a patient’s family members, or appropriate health care professionals. “Practice genetic counseling” does not include diagnosing or treating an illness, disease, or condition.

Exceptions to Licensure

The bill’s licensure requirement does not apply to specified individuals, including an individual who holds a doctoral degree in genetic counseling or a related field approved by MBP.

Genetic Counselor License

An applicant for a license must be of good moral character, be at least 18 years old, submit to MBP satisfactory evidence of certification as a certified genetic counselor by a national certifying board, submit to a criminal history records check, submit an application to MBP, and pay an application fee set by MBP.

The term of a license may not exceed three years. The bill specifies licensing procedures for renewal and reinstatement, including continuing education requirements.

Requirement to Refer

If, while practicing genetic counseling, a licensed genetic counselor determines that a patient requires a diagnosis or treatment, the genetic counselor must refer the patient to a licensed physician or another appropriate health care practitioner.

Discipline

Subject to hearing provisions, an MBP disciplinary panel 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 one of 29 enumerated disciplinary grounds. The board may reinstate a revoked license under specified circumstances.

Required Reporting

Hospitals, related institutions, alternative health systems, and employers must report specified information regarding genetic counselors to MBP for any reasons that may be grounds for disciplinary action. The entity must submit any required report within 10 days of the action that is the subject of the report. The board may impose a civil penalty of up to \$1,000 for failure to make a required report; any collected penalties are remitted to the general fund.

Licensee Profiles

MBP must create and maintain a public individual profile on each genetic counselor licensee that includes specified information, including information relating to charges filed and any final disciplinary action taken against a licensee. MBP must forward a written copy of the profile to a person on request.

Genetic Counseling Advisory Committee

The advisory committee must develop and recommend to MBP regulations to carry out the licensure and regulation of genetic counselors, continuing education requirements for license renewal, and criteria for individuals who are licensed to practice genetic counseling in another state or territory to become licensed in Maryland. The advisory committee must also submit an annual report to MBP.

Penalties

A person who violates the bill's prohibitions against practicing genetic counseling without a license; misrepresentation as a licensed genetic counselor; or providing, attempting to provide, or representing that the person provides genetic counseling services if not authorized is guilty of a misdemeanor and on conviction subject to a fine of up to \$1,000 and/or imprisonment for up to one year. A person who violates these provisions is also subject to a civil fine of up to \$5,000 to be levied by a disciplinary panel; fines are payable to the MBP Fund.

Program Evaluation and Termination

The Maryland Genetic Counseling Act is subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act and terminates June 1, 2030.

Current Law/Background: According to the National Society of Genetic Counselors, genetic counselors have specialized education in genetics and counseling to provide personalized help that patients may need as they make decisions about their genetic health, such as how inherited diseases and conditions might affect them or their families and which genetic tests may or may not be right for them. Most genetic counselors work in a clinic or hospital and often work with obstetricians, oncologists, and other doctors. Some provide general care, while others specialize in one or more areas, such as prenatal and preconception, pediatric, cancer, cardiovascular, or neurology. Other genetic counselors focus on research to help advance care for people with genetic conditions.

Certification in genetic counseling is offered by the American Board of Genetic Counseling through an examination administered twice per year. Certification, while not required everywhere, demonstrates that the individual has met the standards necessary to provide competent genetic counseling.

As of February 2020, 25 states license genetic counselors, including Delaware, Pennsylvania, and Virginia. Based on provider information available on the National Society of Genetic Counselors' website, there are approximately 70 genetic counselors in Maryland. The University of Maryland School of Medicine offers a Master's in Genetic Counseling training program.

The mission of MBP is to assure quality health care in Maryland through the efficient licensure and effective discipline of health providers under its jurisdiction, by protecting and educating clients/customers and stakeholders and enforcing the Maryland Medical Practice Act. The board has regulatory authority over physicians, physician assistants, radiographers, radiation therapists, nuclear medicine technologists, radiologist assistants, respiratory care practitioners, polysomnographic technologists, athletic trainers, perfusionists, and naturopathic doctors.

State Fiscal Effect: Special fund expenditures for MBP increase by \$58,428 in fiscal 2021, which accounts for the bill's October 1, 2020 effective date. This estimate reflects the cost to hire one full-time, grade 15 licensure analyst to develop regulations, recruit members for and staff the advisory committee, and establish a licensing program for genetic counselors. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1
Salary and Fringe Benefits	\$51,187
One-time Start-up Expenses	4,890
Ongoing Operating Expenses	<u>2,351</u>
Total FY 2021 State Expenditures	\$58,428

Once licensure of genetic counselors is in place (on or after October 1, 2022), MBP special fund expenditures increase by an additional \$17,500 annually for contractual services related to investigating compliance, performing peer reviews and providing rehabilitation services in cases related to genetic counseling, and litigation expenses for any disciplinary actions against genetic counselors (or unlicensed genetic counselors in violation of the licensure requirement).

This analysis assumes that available fund balance is used to cover costs for fiscal 2021 and 2022 related to *establishing* the licensure program. As MBP is special funded, it must set reasonable fees for the issuance and renewal of licenses and other services it provides to genetic counselors. Licensure fees must be set so as to approximate the cost of *maintaining* the licensure program.

No special fund revenues are anticipated in fiscal 2021 or 2022, as MBP needs time to implement the new licensure program before accepting applications; moreover, licensure is not required until October 1, 2022. Accordingly, this analysis assumes license fees are collected beginning in fiscal 2023, at which time the license fee will be set to cover the cost of the licensure program going forward.

There are currently approximately 70 genetic counselors in Maryland. Based on the estimated expenditures discussed above, and assuming that MBP licenses genetic counselors on a biennial basis as with other licensees under the board, initial biennial license fees may be as much as \$2,500. The license fee must be sufficient to cover expenditures for a two-year period. Actual license fees and revenues depend on the number of genetic counselors that seek licensure under the bill, as well as the actual costs incurred by MBP. To the extent that costs related to establishing licensure (assumed to be paid by fund balance) must also be covered by the license fee, the initial license fee must be set much higher.

Small Business Effect: Genetic counselors must be licensed under the bill in order to practice in Maryland; accordingly, they must pay license fees and are subject to disciplinary actions.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 1040 (Delegates Carr and Arentz) - Health and Government Operations.

Information Source(s): National Society of Genetic Counselors; Judiciary (Administrative Office of the Courts); Maryland Department of Health; Office of Administrative Hearings; Department of Legislative Services

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