

Department of Legislative Services  
 Maryland General Assembly  
 2022 Session

FISCAL AND POLICY NOTE  
 Third Reader - Revised

House Bill 218

(Delegate Kelly)

Health and Government Operations

Education, Health, and Environmental Affairs

Health Occupations – Nursing – Dialysis Technicians

This bill repeals the requirement that a dialysis technician be a certified nursing assistant (CNA) except under certain circumstances and establishes a separate certification for a “certified dialysis technician” (CDT) under the State Board of Nursing (BON). An individual must be certified as a CNA *and* a CDT to practice as a dialysis technician in a State-owned hospital or facility. BON must: (1) adopt regulations establishing qualifications for CDTs; (2) maintain a list of all CDTs; (3) set applicable fees; and (4) initiate specified disciplinary action. The BON Safe Practice Committee must evaluate CDTs who request participation in the program and report to BON the name and certificate number of any CDT who is expelled from the program for failure to comply with the conditions of the program. The bill expands the membership of the Certified Nursing Assistant Advisory Committee to include one CDT and one additional administrator from a licensed health care facility. The bill also makes conforming changes. **The bill takes effect July 1, 2022.**

Fiscal Summary

**State Effect:** Special fund revenues increase, likely beginning in FY 2023, from certification fees, as discussed below. BON special fund expenditures increase by as much as \$282,600 in FY 2023 for one-time technology costs and staff to administer the new certification. Future years reflect annualization and elimination of one-time costs.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
SF Revenue	-	-	-	-	-
SF Expenditure	\$282,600	\$156,300	\$160,800	\$165,000	\$169,500
Net Effect	(\$-)	(\$-)	(\$-)	(\$-)	(\$-)

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

**Local Effect:** None.

**Small Business Effect:** None.

## Analysis

### Bill Summary:

#### *Definitions*

“Certified dialysis technician” means an individual who has completed a board-approved dialysis technician program and is certified by BON as a dialysis technician.

“Approved dialysis technician training program” means a course of training approved by BON that prepares the applicant for national certification, meets specified federal requirements, and meets requirements set by the board. “Approved dialysis technician training program” includes the courses required for national certification as a (1) certified clinical hemodialysis technician by the Nephrology Nursing Certification Commission (NNCC); (2) clinical nephrology technician by the National Nephrology Certification Organization (NNCO); or (3) certified hemodialysis technician by the Board of Nephrology Examiners Nursing Technology (BONENT).

#### *Dialysis Technician Certification*

To qualify for certification as a dialysis technician, an applicant must (1) submit the required application; (2) provide evidence of successful completion of an approved dialysis technician training program; (3) pay an application fee; (4) be of good moral character; and (5) be at least 18 years old. An applicant must also submit to a criminal history records check (CHRC).

The board must issue a dialysis technician certificate to any applicant who meets specified requirements. Certificates expire on a date set by the board unless the certificate is renewed for an additional term. BON must send a renewal notice at least three months before a certificate expires. If a CDT is required to have a CHRC for renewal, BON must send the necessary documents for initiating the CHRC with the renewal notice.

CDTs may renew their certificate for an additional term if the certificate holder (1) is otherwise entitled to be certified; (2) submits a renewal application; (3) pays the renewal fee; (4) has completed 16 hours of practice as a dialysis technician in the immediately preceding two-year period, a three-hour board-approved continuing education course, or a board-approved dialysis technician training program; and (5) has an active specified national certificate.

An applicant for certification as a dialysis technician by endorsement must:

- pay the required application fee;
- submit the information required on a BON-specified form; and

- submit written evidence that the applicant (1) is certified to practice as a dialysis technician by another state or territory with requirements that are similar to those established by BON, and that the certification is in good standing; (2) has not committed any act or omission that would be grounds for discipline or denial of certification; (3) has successfully completed dialysis technician training that meets specified standards; and (4) has no record of abuse, negligence, or misappropriation of a resident's property or any disciplinary action taken or pending in any other state or territory against the dialysis technician.

### *Certification and Renewal Fees*

BON must set reasonable fees for the issuance and renewal of certificates and other services provided to CDTs. The fees charged must be set to produce funds to approximate the cost of maintaining the certification program and other services provided to CDTs. BON may designate a CDT on inactive status and reactivate the certificate as deemed necessary. BON may impose a civil fine of up to \$50 on a CDT who fails to renew a certificate within 30 days after its expiration date and continues to practice as a CDT.

### *Disciplinary Action*

Subject to hearing provisions, BON may deny a certificate or grant a certificate, including a certificate subject to a reprimand, probation, or suspension, to any applicant, reprimand any certificate holder, place any certificate holder on probation, or suspend or revoke any certificate if the certificate holder violates specified disciplinary grounds.

After a hearing, if the board finds that there are grounds to suspend or revoke a certificate to practice as a CDT, to reprimand a certificate holder, or to place a certificate holder on probation, the board may impose a penalty of up to \$500 and/or suspend or revoke the certificate, reprimand the certificate holder, or place the certificate holder on probation.

Unless the board agrees to accept the surrender of a certificate, a CDT may not surrender the certificate. BON may require terms and conditions to accept surrender of the certificate. An agreement to accept the surrender is a final order of the board and is public record.

### *Prohibited Actions*

Unless certified by BON, an individual may not practice, attempt to practice, or offer to practice as a CDT. Individuals must be certified by the board before they may (1) use the title "certified dialysis technician" or "dialysis technician"; (2) use the initials "C.D.T." after their name; (3) use any other specified representation with the intent to represent the practice of a CDT; or (4) represent to the public that they are a CDT. An individual may not practice as a CDT under color of any diploma, license, record, or certificate that is

illegally or fraudulently obtained or signed or issued unlawfully or by fraudulent presentation. An individual may not knowingly employ any individual who is not authorized to practice as a CDT.

**Current Law:** In general, an individual must be certified by BON to practice as a nursing assistant in the State; a CNA routinely performs nursing tasks delegated by a registered nurse or licensed practical nurse. CNAs can obtain additional certification as a geriatric nursing assistant, home health aide, certified medicine aide, or dialysis technician. Thus, to practice as a dialysis technician in Maryland, an individual must be a certified nursing assistant with additional certification as a dialysis technician (CNA-DT).

To apply for a nursing assistant certificate, an individual must (1) submit an application; (2) provide evidence of successful completion of an approved nursing assistant training program or a portion of an approved nursing education program that meet the requirements of a nursing assistant training program; (3) pay an application fee; (4) be of good moral character; (5) be at least 16 years old; and (6) submit a CHRC. BON must electronically record each certificate in the board's database and on the board's website.

A nursing assistant certificate must be renewed every two years. A CNA may renew his or her certificate for an additional term if the certificate holder (1) is otherwise entitled to be certified; (2) submits a renewal application; (3) pays a renewal fee; and (4) provides satisfactory evidence of completion of either 16 hours of active nursing assistant practice within the two-year period immediately preceding the renewal or an approved nursing assistant training program. BON must renew the certificate of each nursing assistant who meets renewal requirements.

#### *Certified Nurse Assistant-dialysis Technician*

Under Maryland regulations ([COMAR 10.05.04.01](#)), CNAs may seek certification as a CNA-DTs if they (1) have successfully completed a dialysis technician training program that is approved by BON and prepares the applicant for specified national certification, and (2) obtain national certification upon eligibility. BON recognizes the following specified national dialysis technician certifications: (1) Certified Clinical Hemodialysis Technician by the [NNCC](#); (2) Clinical Nephrology Technician by the NNCO; and (3) Certified Hemodialysis Technician by [BONENT](#).

CNA-DTs may renew their certification every two years if they have completed 16 hours of practice as a dialysis technician in the most previous two years and have completed a three-hour BON-approved continuing education course. They must also hold an active national certification from specified entities. Certification as a CNA-DT is deemed to have lapsed if BON does not have a record of a current active national certification at the time of renewal.

### *Federal Dialysis Technician Requirements*

Under federal regulations ([42 CFR 31 § 494.140\(E\)\(3\)](#)), patient care dialysis technicians must (1) meet all applicable state requirements for education, training, credentialing, competency, standards of practice, certification, and licensure in the state of employment; (2) have a high school diploma or equivalency; and (3) be certified under a state certification program or a national certification program within 18 months of being hired as a dialysis patient care technician.

Dialysis technicians must have completed a training program approved by a specified medical director and governing body, under the direction of a registered nurse, focused on the operation of kidney dialysis equipment and machines, providing direct patient care, and communication and interpersonal skills, including patient sensitivity training and care of difficult patients. The training program must include specified areas.

### *Advisory Committee*

BON's Certified Nursing Assistant Advisory Committee is responsible for (1) evaluating training programs and making recommendations for approval by BON; (2) developing and recommending regulations to enforce laws applicable to nursing assistants and medication technicians; (3) evaluating candidates and recommending action to BON; (4) reviewing investigations of complaints against nursing assistants or medication technicians and making recommendations to BON for disciplinary action; (5) keeping records of its proceedings; and (6) submitting an annual report to BON.

The committee comprises 15 members: 6 nursing assistants; 3 registered nurses; 1 administrator from a licensed health care facility; 1 licensed practical nurse; 1 individual who teaches a nursing assistant course; 1 consumer member; 1 representative of the Maryland Department of Health; and 1 certified medication technician.

**State Revenues:** The bill specifies that initial and renewal fees for a CDT must be set by BON and must produce funds to approximate the cost of maintaining the certification program and the other services provided to CDTs. However, BON advises that initial and renewal certification fees will likely be the same as those for a CNA, which are \$20 for initial certification and \$40 for renewal. Additionally, based on information provided by BON on a previous bill, it will likely take at least nine months to develop regulations for CDTs. Thus, licenses are not likely issued until the last part of fiscal 2023.

Currently, there are between 1,700 and 1,800 CNA-DTs in the State. BON estimates that the initial number of new licenses issued under the bill will be between 3,000 and 5,000 new applicants. BON advises that there are many travel dialysis technicians that

apply to work in the State. *For illustrative purposes only*, if 3,000 new individuals seek dialysis technician certification under the bill, special fund revenues increase by approximately \$60,000 in fiscal 2023. Special fund revenues increase an additional \$120,000 biennially beginning in fiscal 2025 to account for renewal fees. If 5,000 individuals seek certification, special fund revenues increase by approximately \$100,000 in fiscal 2023 and \$200,000 in fiscal 2025.

Any impact on special fund revenues from the imposition of existing penalties or fines is anticipated to be minimal.

**State Expenditures:** Based on an anticipated significant number of new individuals seeking dialysis technician certification under the bill, BON advises that additional staff are necessary. Thus, BON special fund expenditures increase by as much as \$282,599 in fiscal 2023, which accounts for a 90-day start-up delay from the bill’s July 1, 2022 effective date. This estimate reflects the costs of hiring one administrative specialist to review initial and renewal CDT application documents and to verify national certification through collaboration with the appropriate certifying body and one nurse consultant to approve of and conduct site visits to dialysis technician training programs. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The estimate also includes costs to update the board’s online platform to receive and review dialysis technician certification applications.

Positions	2.0
Salaries and Fringe Benefits	\$117,913
One-time Information Technology Update	150,000
Operating Expenses	<u>14,686</u>
<b>Total FY 2023 State Expenditures</b>	<b>\$282,599</b>

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses. To the extent a lesser number of individuals seek dialysis technician certification under the bill, BON special fund expenditures are reduced.

### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

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

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