

**Department of Legislative Services**  
Maryland General Assembly  
2022 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 899 (Senator Kagan)  
Education, Health, and Environmental Affairs

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**Health Occupations Boards - Authority Over Staffing and Infrastructure  
Operations**

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This bill (1) establishes that the Secretary of Health has authority over the “infrastructure operations” (administrative activities) of all boards and commissions under the Health Occupations Article; (2) alters the appointment, selection, and terms of officers for health occupations boards, as specified; (3) establishes that the Secretary of Health has authority over employing staff, designating an executive director from the staff, and setting the compensation for specified staff members for specified health occupations boards; and (4) restricts the use of special funds for those health occupations boards currently funded with special funds. The Secretary of Budget and Management, in consultation with the Secretary of Health, must determine the positions for which the Secretary of Health may set compensation.

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**Fiscal Summary**

**State Effect:** Maryland Department of Health (MDH) general fund expenditures increase by a significant amount beginning in FY 2023 to take fiscal responsibility over the boards’ staff and infrastructure operations, as discussed below. Special fund expenditures for the health occupations boards decrease by a corresponding amount. To the extent the boards reduce fees, special fund revenues also decrease. The Department of Budget and Management can make the determinations required under the bill with existing budgeted resources.

**Local Effect:** None.

**Small Business Effect:** None.

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## Analysis

### Bill Summary:

#### *Health Occupations Boards*

The provisions of the bill apply to the health occupations boards listed in **Exhibit 1**, with specified exceptions where noted.

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### **Exhibit 1 Health Occupations Boards**

State Acupuncture Board  
State Board of Examiners for Audiologists, Hearing Aid Dispensers, Speech Language Pathologists, and Music Therapists  
The State Board of Chiropractic Examiners<sup>1</sup>  
State Board of Massage Therapy Examiners<sup>1</sup>  
State Board of Dental Examiners  
State Board of Dietetic Practice  
State Board of Morticians and Funeral Directors  
State Board of Nursing  
State Board of Examiners of Nursing Home Administrators<sup>2</sup>  
State Board of Occupational Therapy Practice  
State Board of Examiners in Optometry  
State Board of Pharmacy  
State Board of Physical Therapy Examiners  
Maryland Board of Physicians<sup>3</sup>  
State Board of Podiatric Medical Examiners  
State Board of Professional Counselors and Therapists  
State Board of Examiners for Psychologists  
State Board of Social Work Examiners  
State Board for Certification of Residential Child Care Program Professionals<sup>2</sup>  
State Board of Environmental Health Specialists<sup>2</sup>

<sup>1</sup> The Secretary of Health must consult with both specified boards to provide staff jointly.

<sup>2</sup> The special fund provisions do not apply to these boards, which are general funded.

<sup>3</sup> The provisions regarding staff are consistent with the current law provisions for the specified board.

Source: Department of Legislative Services

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*Appointment of Officers:* The Governor, in consultation with the appropriate board, must appoint the president or chairman of the board, who serves a term of two years and may appoint a vice president or vice chairman. If a vacancy occurs in the office of president or chairman, a board must hold a special election within 30 days of the vacancy to elect a president or chairman who will complete the existing term.

A board may elect from among its members any officers, other than the president/chairman or vice president/vice chairman, that it considers necessary. The board must determine the manner of election of officers, the terms of office, and the duties of each officer.

*Staff:* The Secretary of Health, in consultation with a board, may employ a staff for the board in accordance with the State budget and may designate one of the staff as an executive director. The Secretary may set the compensation of a board employee whose position is unique to the board, requires specific skills or experience to perform the duties of the position, and does not require the employee to perform functions that are comparable to functions performed in other units of the Executive Branch of State government. The Secretary of Budget and Management, in consultation with the Secretary of Health, must determine the positions for which the Secretary of Health may set compensation.

*Special Funds:* The special fund of a board may not be used to pay for infrastructure operations. “Infrastructure operations” means the administrative activities of a board or commission established under the Health Occupations Article, including tools and resources for the use and support of deliberative actions. “Infrastructure operations” does not include licensing, investigation, or disciplinary activities.

**Current Law:** There are 20 health occupations boards within MDH that license and certify health care providers in the State. Each board shares the same goals of (1) protecting the public by ensuring that practicing health professionals are properly credentialed and licensed to provide high-quality services to Marylanders and (2) receiving, investigating, and resolving complaints in a timely manner. Each board has specified requirements for licensure or certification of the appropriate health care practitioner, as well as specified license and certification fees. All but three of the health occupations boards are funded with special funds through licensing and certification fees, the majority of which are utilized for administrative purposes for regular and contractual staff. Three boards are funded with general funds, and any fee revenues received from those boards are deposited in the general fund.

**State Revenues:** Generally, each health occupations board is authorized to set fees for the issuance and renewal of licenses and other services. Fees must be set as to produce funds to approximate the cost of maintaining the board. To the extent board expenditures are reduced under the bill, the boards may reduce fees, with a resulting decrease in special fund revenues.

**State Expenditures:** Currently, when MDH provides the boards with infrastructure support, the boards pay for those costs. Under the bill, those costs shift entirely to MDH. MDH general fund expenditures increase beginning in fiscal 2023, likely by a significant amount, to employ a staff for each of the specified health occupations boards; provide administrative support, including human resources and information technology; and to pay for infrastructure operations including rent, utilities, office supplies, and printing. MDH estimates that the rent, utilities, office supplies, and printing for the boards alone cost approximately \$1.95 million annually, and staffing costs likely to shift to MDH are *at least* \$500,000 annually. Other expenditures that shift from board special fund expenditures to MDH general fund expenditures under the bill cannot be reliably estimated at this time.

Special fund expenditures for the boards decrease correspondingly as the boards shift their current expenditures for staff, administrative support, and infrastructure operations to MDH general funds.

**Additional Comments:** The Maryland Board of Physicians (MBP) and the Board of Nursing (BON) advise that the bill’s definition for “infrastructure operations,” which includes tools and resources for the use and support of *deliberative* actions, is possibly in conflict with the bill’s provision that “infrastructure operations” do not include *licensing, investigation, or disciplinary activities*. MBP and BON further advise that bifurcating these activities will create difficulties and inefficiencies for both performing the activities and determining the funding source for the activities.

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### Additional Information

**Prior Introductions:** None.

**Designated Cross File:** None.

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

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