

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 693

(Delegate Kipke, *et al.*)

Health and Government Operations

Finance

State Board of Pharmacy - Board Membership, Delegated Pharmacy Acts, and
Sunset Extension

This emergency bill (1) adds a registered pharmacy technician member to the State Board of Pharmacy (MBOP); (2) specifies that a licensed pharmacist may delegate certain data entry tasks to be performed at a remote location to a registered pharmacy technician or registered pharmacy intern, as specified; (3) prohibits a registered pharmacy technician or pharmacy technician trainee from making decisions that require the professional judgment of a pharmacist; (4) authorizes a registered pharmacy technician to administer only specified vaccinations to specified individuals; and (5) prohibits a pharmacy technician trainee from administering vaccinations. The bill also extends the termination date for MBOP by two years to July 1, 2025, subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act (MPEA).

Fiscal Summary

State Effect: Special fund revenues and expenditures for MBOP are maintained through FY 2025. Special fund expenditures may increase minimally to cover the per diem and related expenses of the additional board member; any other workload on MBOP under the bill can be handled with existing budgeted resources. Revenues are not affected.

Local Effect: The bill does not directly affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law: MBOP regulates the practice of pharmacy by licensing pharmacists, registering pharmacy technicians, issuing permits to individuals to establish or operate pharmacies in the State, setting pharmacy practice standards, and developing and enforcing laws and regulations to protect the public.

Board Membership

Under current law, the board comprises 12 members, 10 of whom must be licensed practicing pharmacists and 2 of whom must be consumers. Each pharmacist member must be skilled and competent in practicing pharmacy and have at least five years of active pharmacy experience. For each pharmacist vacancy, the board must notify all licensed pharmacists and other interested parties of the vacancy to solicit nominations to fill the vacancy and provide information for contacting a representative of the designated group that submits the list of names that the Governor may choose from in appointing a member to fill the vacancy.

The bill adds an additional member who must be a registered pharmacy technician (1) skilled and competent in practicing pharmacy and (2) that has at least five years of active pharmacy practice. The Governor must appoint this member, with the advice of the Secretary of Health, from a list of all names submitted by the Maryland Society of Health-System Pharmacists (MSHP) and the Maryland Pharmacists Association (MPhA). For each registered pharmacy technician vacancy, the board must notify all registered pharmacy technicians in the State, solicit nominations for the vacancy, and disseminate information for contacting a representative of MSHP or MPhA about the vacancy.

Delegated Pharmacy Acts

Definition of Delegated Pharmacy Acts: Under current law, a “delegated pharmacy act” is an activity that constitutes the practice of a pharmacy delegated by a licensed pharmacist under the Health Occupations Article and board regulations. A delegated pharmacy act does not include (1) an act within the parameters of a therapy management contract; (2) the administration of an influenza vaccination; (3) the delegation of a pharmacy act by a registered pharmacy technician, pharmacy student, or pharmacy technician trainee; (4) a pharmacy activity performed by a pharmacy student; or (5) a pharmacy activity performed by an applicant for a license to practice pharmacy in accordance with the board’s regulations.

The bill specifies that a delegated pharmacy act does not include a decision-making task that requires the professional judgment of a pharmacist and expressly prohibits a registered pharmacy technician or pharmacy technician trainee from making decisions that require

the professional judgment of a pharmacist. Additionally, the bill provides that a delegated pharmacy act does not include the administration of a vaccination, except for specified vaccinations administered by a registered pharmacy technician.

Authorization to Administer Vaccinations: The bill repeals the prohibition on a registered pharmacy technician or pharmacy technician trainee administering influenza vaccinations. The bill authorizes a registered pharmacy technician to administer only (1) an influenza, COVID-19, or pneumonia vaccination to an individual age 18 or older and (2) a respiratory syncytial virus or shingles vaccination to an individual age 50 or older. The bill expressly prohibits a pharmacy technician trainee from administering vaccinations.

Delegation of Pharmacy Acts: Under current law, a licensed pharmacist may delegate pharmacy acts to a registered pharmacy technician, pharmacy student, or pharmacy technician trainee provided that the acts are (1) directly supervised by a licensed pharmacist; (2) are not required to be performed by a licensed pharmacist; (3) are within the education, training, experience, and area of practice of the delegating licensed pharmacist; and (4) are appropriate to the education, training, and experience of the registered pharmacy technician, pharmacy student, or pharmacy technician trainee.

The bill authorizes a licensed pharmacist to delegate the entry of prescription-related data into databases or patient charts to be performed at a remote location to a registered pharmacy technician or registered pharmacy intern, if the following conditions are met:

- the registered pharmacy technician or registered pharmacy intern has immediate electronic access to a pharmacist who can provide assistance as needed;
- the data entry is not required to be performed by a licensed pharmacist;
- the data entry is within the education, training, experience, and area of practice of the delegating licensed pharmacist;
- the data entry is appropriate to the education, training, and experience of the registered pharmacy technician or registered pharmacy intern; and
- if the data entry involves access to protected patient information under the federal Health Insurance Portability and Accountability Act of 1996, it can be performed in a manner that maintains the confidentiality of patient information.

Board Reauthorization

The board is one of approximately 60 regulatory entities and activities subject to termination unless reauthorized periodically through statute. Under MPEA, these entities may also be subject to an evaluation by the Office of Program Evaluation and Government Accountability (OPEGA) within the Department of Legislative Services prior to their termination. However, OPEGA may conduct an evaluation only if directed by specified

entities or by legislation. The board is scheduled to terminate July 1, 2023; OPEGA was not asked to conduct an evaluation prior to its termination. Accordingly, reauthorizing legislation is being introduced, which extends the board's termination date to July 1, 2025.

Small Business Effect: Independent and community pharmacies may benefit from increased flexibility for their staffing needs as the bill permits certain data entry tasks performed by registered pharmacy technicians to be done remotely.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 647 (Senator Carozza, *et al.*) - Finance.

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

Fiscal Note History: First Reader - February 27, 2023
km/jc Third Reader - March 16, 2023
Revised - Amendment(s) - March 16, 2023
Enrolled - May 3, 2023
Revised - Amendment(s) - May 3, 2023

Analysis by: Ralph W. Kettell

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