

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 977

(Delegate Pena-Melnyk, *et al.*)

Health and Government Operations

Finance

Maryland Department of Health - Office of the Chief Medical Examiner

This bill establishes the Office of the Chief Medical Examiner (OCME) as a unit within the Maryland Department of Health (MDH) to advance forensic science through medical education and research, as staffing allows, and carry out any other duty established in law. The bill redesignates the State Postmortem Examiners Commission to be the Postmortem Examiners Advisory Committee, which must advise the Secretary of Health and OCME on the implementation of the Postmortem Examiners Commission Subtitle (which is not renamed in the bill) and OCME's duties. The bill excludes a retiree of the Employees' Pension System (EPS) who is reemployed on a contractual basis by MDH as a health care practitioner in OCME from a specified benefit reduction from the State Retirement and Pension System (SRPS). The bill also makes other technical changes, including updating the list of units in MDH. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: The bill's changes are procedural in nature and do not materially affect governmental finances. Since the bill's pension provision is assumed to apply in a limited number of cases, it has no material effect on pension liabilities or contribution rates.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary/Current Law: In general, the bill transfers the responsibilities of the former State Postmortem Examiners Commission to MDH, the newly established Postmortem Examiners Advisory Committee, or OCME.

Redesignation of the State Postmortem Examiners Commission as the Postmortem Examiners Advisory Committee

Under current law, the commission consists of five members, as specified. The commission must elect a chairman and a vice chairman from among its members, determine the manner of election of officers and their terms of office, and determine the times and places of its meetings. A member of the commission may not receive compensation. The commission may employ staff, as specified.

Under the bill, the committee replaces the commission, requires the Secretary to appoint a chair to the committee, and retains the same membership, but authorizes the Secretary of Health, in consultation with OCME, to appoint any other member to the committee. As under current law for the commission, the committee must determine the times and places of its meetings and members may not receive compensation (however, the bill specifies that compensation cannot be received *for performing committee duties*). The committee must advise the Secretary and OCME on the implementation of the Postmortem Examiners Commission Subtitle of the Health-General Article.

Office of the Chief Medical Examiner

Under current law, the commission is empowered to employ a staff in accordance with the State budget for the operation of the commission and to maintain accreditation. The staff must include specified positions. The Chief Medical Examiner and deputy chief medical examiners must be board certified in anatomic and forensic pathology by the American Board of Pathology. Assistant medical examiners appointed on or after October 1, 2008, must either be certified by the American Board of Pathology in anatomic and forensic pathology or obtain certification within three years of appointment. The commission may also employ any physician on a contract basis for part-time services. MDH must ensure that the number of staff employed by the commission does not fall to a level that would constitute a Phase II violation according to the National Association of Medical Examiners (NAME). With the approval of the Secretary of Budget and Management, the commission must set the compensation for appointed personnel. The commission may adopt rules and regulations to carry out the provisions of the Postmortem Examiners Commission Subtitle of the Health-General Article.

Under the bill, MDH (rather than the commission) is empowered to employ staff in accordance with the State budget for the operation of OCME. The staff must include fellow medical doctors who are training in forensic pathology in accordance with the number of positions approved by the Accreditation Council for Graduate Medical Education (rather than four resident medical doctors training in forensic pathology). MDH may also employ any physician on a contract basis for part-time service or per diem services, notwithstanding any other provision of law. Assistant medical examiners not already certified as specified must obtain certification within the appointee's period of board eligibility provided by the American Board of Pathology. MDH must ensure that the number of staff employed by OCME does not fall to a level that would constitute a NAME Phase II violation. MDH must set the compensation for appointed personnel, with the approval of the Secretary of Budget and Management. Additionally, the Secretary of Health must consult with the committee regarding matters related to the employment of the Chief Medical Examiner. MDH, in consultation with the committee, may adopt rules and regulations to carry out the provisions of the Postmortem Examiners Commission Subtitle of the Health-General Article.

Under the bill, OCME, rather than the commission, must see that proper equipment is provided for the medical examiners. Also, OCME, rather than the commission, may appoint one or more deputy medical examiners and forensic investigators for each county – generally from a list of qualified individuals submitted by the county's medical society.

The bill also repeals language that prohibits the Secretary from (1) disapproving or modifying any decision or determination that the commission makes under authority specifically delegated by law to the commission and (2) transferring by rule, regulation, or written directive, any staff, functions, or funds of the commission. However, under the bill, MDH and the committee are prohibited from interfering with the clinical findings or conclusions prepared by an individual who performs an autopsy.

State Retirement and Pension System – Retiree Earnings Limitations and Exceptions

Under current law, a retiree who receives a retirement benefit from SRPS may be reemployed, except that the retiree may not be reemployed by the State or any participating SRPS employer within 45 days of retiring. In most cases, a retiree who is rehired by the same employer for whom the retiree worked at the time of retirement is subject to an earnings cap. The purpose of the cap, which is the member's average final compensation (AFC) at the time of retirement, is to ensure that a retiree does not earn more in retirement than the retiree earned as an active member with the same employer. If the sum of a retiree's earnings and initial retirement allowance exceeds the earnings cap, the retiree is subject to a dollar-for-dollar offset of the retirement benefit for any amount that exceeds the cap. For a member who retires directly from State service, the State is regarded as a single employer, so reemployment with any State agency activates the benefit reduction.

Statute includes several broad exemptions from the benefit reduction, including for retirees who:

- have been retired for at least five years;
- retired with an AFC of less than \$25,000 and are reemployed on a permanent, temporary, or contractual basis;
- are serving in any specified elected position; or
- are reemployed on a contractual basis by MDH as a health care practitioner in specified capacities.

The bill excludes a retiree of EPS who is reemployed on a contractual basis by MDH as a health care practitioner in OCME from the benefit reduction.

Additional Information

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

Designated Cross File: None.

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

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