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Maryland General Assembly
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FISCAL AND POLICY NOTE
First Reader

House Bill 776 (Delegate Pena-Melnyk)
Health and Government Operations

**Maryland Medical Practice Act and Maryland Physician Assistants Act -
Revisions**

This bill alters, clarifies, and makes consistent provisions of law regarding physicians, physician assistants (PAs), and allied health professionals regulated by the Maryland Board of Physicians (MBP). Among other actions, the bill alters disciplinary grounds and the disciplinary process, licensure requirements, board duties, specified notification requirements, and provisions governing the allied health professional advisory committees. The bill increases existing civil penalties and establishes new administrative penalties for specified violations. The bill also repeals obsolete and redundant language and makes clarifying and conforming changes.

Fiscal Summary

State Effect: Special fund revenues to the Board of Physicians Fund may increase by an indeterminate amount beginning as early as FY 2026 to the extent new and increased civil or administrative penalties are assessed. General fund revenues may also increase by a minimum amount beginning as early as FY 2026 to the extent increased civil penalties are assessed. MBP can implement the bill with existing budgeted resources.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law: MBP's mission is to assure quality health care through the efficient licensure and effective discipline of the health care providers under its jurisdiction.

MBP has regulatory authority over physicians, PAs, radiographers, radiation therapists, nuclear medicine technologists, radiologist assistants, respiratory care practitioners, polysomnographic technologists, athletic trainers, perfusionists, naturopathic doctors, and genetic counselors.

As discussed further below, the bill generally: (1) repeals the requirement that MBP approve a certifying board; (2) clarifies that a supervised medical graduate includes those that have passed parts 1 and 2 of a specified osteopathic medical licensing examination; (3) requires MBP to issue a verification of license status; (4) prohibits MBP from releasing a list of applicants for licensure; (5) requires that an MBP fee be used to cover the actual documented costs of fulfilling duties for the practitioner type from whom the fee was collected; (6) authorizes MBP, under a subpoena, to inspect the place of business of any licensee and increases the fine for failure to comply; (7) authorizes MBP to issue a cease-and-desist order for a licensee who practices with an unauthorized person; (8) authorizes MBP to impose an administrative penalty of up to \$25,000 for specified violations; (9) alters what MBP must publicly report regarding licensees on its website; (10) alters disciplinary panel procedures; (11) reduces the amount of time for physician peer review; (12) replaces the physician rehabilitation program with a rehabilitation program for all licensees; (13) subjects *applicants* to an examination as part of the review of a license application; (14) requires an applicant for reinstatement to pay the cost of an examination; (15) clarifies reporting requirements for hospitals, related institutions, alternative health systems, and employers, with specified exceptions for licensees entering treatment programs; (16) requires licensees to report their decision to enter treatment to the entity that employs them within 15 days and increases the fine for failure to report; (17) clarifies that entities are prohibited from employing an individual to practice without a license, subject to a civil penalty of up to \$5,000; (18) increases the maximum penalty for failure to report to MBP to \$10,000 for physicians and \$5,000 for allied health practitioners; (19) specifies that applicants must be fluent in oral and written English and meet any education, certification, training, or examination requirements established by MBP; (20) specifies that a license expires on a date set by MBP and may be renewed for a term set by MBP; (21) requires licensees to notify MBP of a name or address change within 10 days; (22) alters physician license reinstatement provisions; (23) alters the composition of and member requirements for various allied health advisory committees; (24) alters and clarifies requirements regarding various allied health professions; and (25) alters and clarifies provisions regarding a PA collaboration agreement and specified notification regarding delegated prescriptive authority.

Approval of Certifying Boards: Under current law, “board certified” means a physician is certified by a public or private board and the certifying board is (1) a member of American Board of Medical Specialties (ABMS), an American Osteopathic Association (AOA) certifying board, the Royal College of Physicians and Surgeons of Canada (RCPSC), or the College of Family Physicians of Canada (CFPC); (2) has been approved by MBP; or

(3) requires that the physician complete a postgraduate training program that provides complete training in the specialty or subspecialty and is accredited by the Accreditation Council for Graduate Medical Education or AOA and be certified by a member board of ABMS, AOA, RCPSC, or CFPC. The bill repeals the requirement that MBP approve the certifying board if it meets either of the other two requirements.

Supervised Medical Graduate: Under current law, a “supervised medical graduate” must have passed parts 1 and 2 of the United States Medical Licensing Examination, among other requirements. The bill specifies that a supervised medical graduate also includes someone who has passed parts 1 and 2 of the Comprehensive Osteopathic Medical Licensing Examination of the United States.

Additional Board Duties: The bill requires MBP to issue a verification of license status and clarifies that the board must keep a list of all *pending* license applicants and all *licensees* (rather than physicians) who are currently licensed. The board is prohibited from releasing a list of applicants for licensure.

Board of Physicians Fund: Under current law, the Board of Physicians Fund is a special fund with funds generated by fees for the issuance and renewal of licenses, as well as other MBP services. The bill requires that a fee collected by MBP must be used to cover the actual documented direct and indirect costs of fulfilling statutory and regulatory duties for the specified practitioner type of the applicant or licensee from whom the fee was collected.

Inspection of Place of Business: Under current law, the board may issue a subpoena under which the executive director or an authorized agent or investigator may enter at any reasonable hour a place of business of a licensed physician as part of an investigation. Failure to allow the board entry is subject to a penalty of \$100. The bill specifies that the board may enter a place of business of any *licensee* and increases the fine for failure to comply to \$1,000.

Practicing with an Unauthorized Person: Under current law, a disciplinary panel may issue a cease-and-desist order or obtain injunctive relief against an individual for practicing without a license. The bill expands that authority to include if an individual practices a profession regulated by MBP *with an unauthorized person*.

Administrative Penalties: The bill authorizes MBP to impose an administrative penalty of up to \$25,000 for (1) failure to produce all documents in response to an MBP subpoena, (2) dispensing a drug without a valid dispensing permit, and (3) failure to complete a supplemental application for a license compact. MBP must adopt regulations to establish these administrative penalties. Any penalties must be paid to the Board of Physicians Fund.

Public Reporting on Maryland Board of Physicians' Website: Under current law, MBP must maintain a public individual profile of each licensee on its website. Additionally, MBP must notify the public on its website that an individual may contact MBP to find out whether a particular licensee has been involved in three or more medical malpractice settlements with an amount of \$150,000 or more in the past five years. Although current practice, the bill additionally codifies this language under the naturopathic doctor statute. MBP, following the filing of charges or initial denial of a license application, must disclose the filing to the public on MBP's website. The bill also increases the minimum medical malpractice settlement amount that public may obtain information about a licensee on from \$150,000 to \$1.0 million.

Investigation and Disciplinary Process: Under current law, MBP has two 11-member disciplinary panels. Either may, by majority vote, revoke or suspend a license or discipline a licensee if the licensee violated certain statutory disciplinary grounds. Upon receiving a complaint, MBP conducts a preliminary investigation, the results of which are presented to the original panel. The panel may close the case or instruct MBP to conduct a complete investigation. For certain complaints, the complete investigation requires physician peer review. The reviewer has 90 days to complete the peer review and can apply for up to a 30-day extension. The results of the full investigation are presented to the panel, which can vote to charge the respondent. If charged, the respondent is given the option to attend a case resolution conference. If no agreement is reached or if the respondent declines to participate in the conference, the case is referred to the Office of Administrative Hearings (OAH) for a hearing before an administrative law judge (ALJ). The OAH hearing is conducted according to the Administrative Procedure Act. An ALJ provides the facts, but MBP is not bound by the findings. The administrative prosecutor and the respondent can file disagreements with the ALJ's decision, and the opposite board panel (the one that did not originally handle the case) will consider the exceptions, if any, and issue a final order. If the respondent disagrees with the final order, they may file a petition for judicial review.

The bill requires that, if a complaint proceeds to a hearing, the chair of the disciplinary panel assigned to the complaint must refer the complaint to OAH (rather than the other disciplinary panel). If the disciplinary panel rescinds its referral of the complaint to OAH, the complaint will return to the original disciplinary panel. After an evidentiary hearing at OAH, the chair of the original disciplinary panel assigned to the complaint must refer the complaint to the other disciplinary panel for further action and members of the original disciplinary panel may not participate in the complaint.

The bill also shortens the peer review process so that a reviewer has 60 (rather than 90) days to complete their review and may apply for up to a 20-day (rather than 30-day) extension. The bill also adds willfully making a misrepresentation to a disciplinary panel as a disciplinary ground for PAs.

The bill authorizes a disciplinary panel (rather than MBP) to reinstate the license of an individual whose license has been surrendered or revoked for more than one year if the licensee meets requirements for reinstatement and completes a criminal history records check.

Rehabilitation Program: The bill repeals the definition of “physician rehabilitation program” and replaces it with “rehabilitation program,” which means the program of MBP or the nonprofit entity with which MBP contracts that evaluates and provides assistance to impaired physicians and allied health professionals who are directed by MBP to receive treatment and rehabilitation for alcoholism, chemical dependency, or other physical, emotional, or mental conditions. The bill also adds PAs to those eligible for the rehabilitation program.

Examination of Licensees and Applicants: Under current law, as part of the review of a license application or investigation of an allegation, a licensee may be required to submit to an appropriate examination. If a licensee refuses to submit to examination, that is considered evidence of the licensee’s inability to practice competently, unless the refusal was out of the licensee’s control. MBP must pay the cost of any examination. The bill adds applicants for licensure to those who must submit to an examination. While MBP must pay the examination cost for applicants and licensees, an applicant for reinstatement must pay their own examination cost.

Hospitals, Related Institutions, Alternative Health Systems, and Employers: The bill requires a hospital, related institution, alternative health system, and employer to file a report with MBP if they have limited, reduced, otherwise changed, or terminated any licensed athletic trainer or naturopathic doctor for any reason that might be grounds for disciplinary action by MBP.

An entity with knowledge that a licensed physician, athletic trainer, or naturopathic doctor may have committed an action or has a condition that might be grounds for reprimand or probation because the licensee was alcohol- or drug-impaired are *not* required to report to MBP if (1) the entity knows the licensee is entering a treatment program or is under the care of a health practitioner; (2) the entity can verify the licensee remains in the treatment program until discharge; and (3) the action of the licensee has not caused injury to any person. An entity must report to MBP if the licensee fails to give this notice or is noncompliant with treatment.

The bill clarifies that all MBP licensees must report their decision to enter treatment to the entity that employs them within 15 days after decision to enter the treatment program.

The bill prohibits a hospital, related institution, alternative health care system, or an employer from employing an individual to practice medicine without a license. A

disciplinary panel may impose a civil penalty of up to \$5,000 for a violation of this prohibition. Any funds collected accrue to the Board of Physicians Fund.

Civil Penalties for Failure to Report to the Board: Under current law, a disciplinary panel can impose on a physician a civil penalty of up to \$5,000, and on an allied health practitioner a civil penalty of up to \$1,000, for not reporting appropriately to MBP. The bill increases the maximum penalty to \$10,000 for physicians and \$5,000 for allied health practitioners.

Licensing Requirements and Communication in the English Language: Under current law, an applicant for a license must pass MBP's required examination. As part of the examination, an applicant must be proficient in speaking English. The bill specifies that, to qualify for licensure, an applicant must meet any education, certification, training, or examination requirements established by MBP. Applicants also must be fluent in both spoken and written English communication.

License Term and Renewal Notification: Under current law, a license expires two years from its issue date and may be renewed every two years. At least one month before the license expires, MBP must send notice to the licensee, as well as a blank panel data sheet supplied by the Health Care Alternative Dispute Resolution Office. The bill specifies that a license expires on a date set by MBP and may be renewed for a term set by MBP. The requirement to send a licensee a blank panel data sheet is repealed. The bill also specifies that, to qualify for license renewal, a licensee must provide satisfactory evidence of compliance with any continuing *competency* requirements and meet any additional license renewal requirements established by MBP.

Change in Name or Address: Under current law, a licensee must notify MBP's secretary in writing within 60 days of a name or address change. The bill requires that this notification be provided within 10 days after the change.

Reinstatement of Physician License or Emeritus Status: Under current law, MBP must reinstate the license of a physician who has failed to renew or is on inactive status if the physician (1) meets renewal requirements; (2) pays the reinstatement fee; and (3) submits evidence to MBP of compliance with the qualifications and requirements for reinstatement. The bill adds two additional requirements; a physician must submit a reinstatement application and meet any additional MBP license reinstatement requirements.

Advisory Committees – Generally: The bill authorizes MBP, except as otherwise specified, to adopt regulations regarding its advisory committees governing members' terms of office, procedures for filling committee vacancies, the removal of members, and the duties of each officer. The bill alters the membership, procedures, and responsibilities of all MBP advisory committees to make them more uniform, as follows:

- all committee members must be Maryland residents;
- all licensed committee members must be in good standing with MBP;
- a committee member may not serve more than two consecutive full terms;
- at the end of a term, a member continues to serve until their successor is appointed;
- a member who was appointed after a term has begun may serve only for the rest of the term until a successor is appointed;
- quorums are established for each committee;
- committees must recommend any statutory changes that affect their profession to MBP;
- committees are no longer responsible for submitting an annual report to MBP or developing a code of ethics, standards of care, or continuing education requirements for license renewal;
- except for the PA advisory committee, committees are no longer responsible for evaluating the credentials of applicants;
- if requested by MBP or a disciplinary panel, a committee must provide recommendations regarding the practice of their profession and advise MBP on any matters related to the profession; and
- MBP no longer needs to consider all committee recommendations, nor must they provide a report to the committee on disciplinary matters involving licensees.

Respiratory Care Advisory Committee: The bill renames the Respiratory Care Professional Standards Committee to be the Respiratory Care Advisory Committee and removes the committee's responsibility to recommend criteria for respiratory care practice in the home setting.

Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Advisory Committee: The bill specifies that the consumer member of the committee must not be or have ever been any health care professional, as specified or in training to be any health care professional and may not have had financial interest in the provision of goods or services related to the profession within the two years prior to appointment to the committee.

Polysomnography Advisory Committee: The bill renames the Polysomnography Professional Standards Advisory Committee to be the Polysomnography Advisory Committee. The bill removes the prohibition on the consumer member of the committee having a household member who is a health care professional and the committee's responsibility to develop and recommend criteria for those licensed in other states to practice in Maryland and polysomnographic technologists to direct students.

Polysomnographic Technologists: The bill adds an exception for a polysomnographic technologist employed by the federal government while practicing within their scope of employment and removes the option for an education requirement for an applicant to be waived.

Athletic Trainer Advisory Committee: Under current law, there are nine members of the Athletic Trainer Advisory Committee, including (1) three licensed athletic trainers who are certified by the national certifying board and have at least five years of clinical experience; (2) three licensed physicians with specified experience; (3) one member who is either a chiropractor with sports medicine experience, physical therapist, or occupational therapist; and (4) two consumer members. The athletic trainer members may be appointed from a list of qualified individuals submitted to MBP by the Maryland Athletic Trainers Association, Inc. (MATA). MBP may request an additional list of nominees for each vacancy.

The bill reduces the number of committee members from nine to seven by removing one consumer member and the member who is either a chiropractor, physical therapist, or occupational therapist. The requirement that the athletic trainer members have specified certification and experience and the authority of the board to appoint members from the list submitted by MATA are repealed. Instead, MBP must appoint at least one of the athletic trainer members from the MATA list. The bill also specifies that the consumer member of the committee may not have a household member who participates in a commercial or professional field related to athletic training or have had a financial interest in a person regulated by MBP within the two years before appointment to the committee.

Perfusionists: While an individual generally must be licensed by MBP to practice perfusion in the State, the bill adds an exception for a perfusionist employed by the federal government while practicing within their scope of employment. The bill also prohibits a licensed physician from employing or supervising an individual practicing perfusion without a license. A disciplinary panel may impose a civil penalty of up to \$5,000 for a violation of this prohibition. Any penalty collected must be remitted to the general fund.

Naturopathic Medicine Advisory Committee: The bill reduces the term of a committee member from four to three years and alters committee responsibilities by removing the need to develop and recommend procedures for issuing licenses to applicants who qualify by reciprocity. The bill specifies that the licensed physician members of the committee are not required to be *practicing* physicians. The consumer member of the committee may not be or ever been in training to be or licensed to practice a health occupation, nor may they participate in or have a household member who participates in a commercial or professional field related to naturopathic medicine nor had a financial interest in a person regulated by the board or goods and services related to naturopathic medicine within two years before appointment to the committee.

Naturopathic Doctors: Under current law, to apply for a naturopathic doctor license, an applicant must, among other things, complete an attestation that the applicant has a collaboration and consultation agreement with a licensed physician. The bill removes the *attestation* requirement but requires that a naturopathic doctor maintain a collaboration and consultation agreement with a physician licensed to practice in the State. A naturopathic doctor and licensed physician may terminate their agreement at any time. If the agreement is terminated or the physician suddenly departs, is incapacitated, or passes away, the naturopathic doctor may not practice until they enter a new agreement with another physician. A physician or employer must notify MBP within 10 days of the termination of a naturopathic doctor if the reason for termination may be grounds for discipline and must notify MBP within 10 days after the termination of a collaboration and consultation agreement. The bill also prohibits a licensed physician from employing an individual practicing naturopathic medicine without a license. A disciplinary panel may impose a civil penalty of up to \$5,000 for a violation of this prohibition. Any penalty collected must be remitted to the general fund.

Genetic Counseling Advisory Committee: The bill specifies that the consumer member of the committee may not have had a financial interest in the provision of goods and services to genetic counselors or to the field of genetic counseling within the two years prior to appointment to the committee. The bill also alters committee responsibilities to remove the need to develop and recommend procedures for issuing licenses to applicants who qualify by reciprocity.

Genetic Counselors: Under current law, an applicant for a license to practice genetic counseling must submit evidence of certification by a national certifying organization approved by MBP. Initial licensure legislation included a grandfathering clause which exempted applicants from the national certification requirement if they (1) worked as a genetic counselor for at least 10 years prior to January 1, 2024, and at least 5 consecutive years immediately preceding the date of application for licensure; (2) graduated from an MBP-approved education program; (3) submitted specified letters of recommendation; and (4) applied for licensure by December 31, 2024. The bill repeals this grandfathering clause exception, thereby requiring national certification for licensure to practice genetic counseling. The bill also specifies that an individual may not misrepresent to the public that they are authorized to practice genetic counseling in the State.

Physician Assistant Advisory Committee: The bill requires that the consumer member of the committee and members of their household may not have ever participated in a field related to PA practice. Additionally, they may not have had financial interest in a person or career regulated by MBP or the provision of goods and services to PAs or the field of PA practice in the two years prior to appointment to the committee. The bill also repeals the requirement that the committee elect a secretary and limits the term of a committee member to three years.

Physician Assistants: Under current law, a PA may practice only after providing notice to MBP of the executed collaboration agreement and each patient care team physician listed on the collaboration agreement. The bill removes the requirement that a PA notify MBP of each patient care team physician listed on the collaboration agreement. The bill specifies that a patient care team physician may be added or removed from a collaboration agreement by *immediately* documenting the addition or removal in the collaboration agreement on file at the PA's primary place of business. The bill also removes the requirement that, if a patient care team physician who has delegated prescriptive authority to a PA restricts or removes the delegation, the physician must notify MBP within five business days.

State Fiscal Effect: OAH advises that the changes to disciplinary proceedings in the bill would likely result in an indeterminate increase in the number of hearings delegated by MBP to OAH. OAH would also need to train ALJs on updates to the law. This can be handled within OAH's existing budgeted resources. In fiscal 2024, OAH received 17 cases from MBP.

Additionally, this bill increases civil penalties for licensees who violate specified provisions of law (some of which accrue to the Board of Physicians Fund and some to the general fund) and establishes additional administrative penalties. Thus, special fund revenues to the Board of Physicians Fund and to the general fund increase by an indeterminate amount as early as fiscal 2026 to the extent that individuals violate such provisions and penalties are imposed.

Additional Information

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

Designated Cross File: SB 423 (Senator Beidle) - Finance.

Information Source(s): Department of Budget and Management; Maryland Department of Health; Office of Administrative Hearings; Maryland Health Care Alternative Dispute Resolution Office; Department of Legislative Services

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