



Board of Physicians

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

2020 SESSION POSITION PAPER

BILL NO: HB 42

COMMITTEE: Health and Government Operations

POSITION: Oppose

TITLE: Public Information Act-Applications for Inspection-Response and Time Limits

BILL ANALYSIS: This bill would alter the time period for a state agency to respond to Public Information Act (PIA) requests from thirty (30) days to seven (7) days

POSITION & RATIONALE: The Maryland Board of Physicians (Board) and the health occupation boards noted below oppose HB 42. The Boards do not believe this bill is necessary. It will have a fiscal impact resulting from the need to hire additional staff dedicated to responding to PIA requests, and even with additional staff, there will be many occasions when it will be impossible to meet the new seven (7) day time-frame requirement due to circumstances beyond the Board's control.

In 2019, Board staff responded to hundreds of public information requests. The vast majority were completed within the statutory time-frame. However, some requests occasionally required a request for additional time based on the volume of materials requested, the complexity of the request and the location of the records. Certain PIA requests can be complicated and involve multiple steps, lengthy research and significant staff time. PIA requests often involve several steps, including conferring with Board staff and/or Board Counsel, researching whether the Board is in possession of the records or whether the records are located off-site, requesting records from the State's storage facilities, waiting for transcription services, copying voluminous records (for example, twelve (12) record boxes for one (1) PIA request), redacting records and calculating the costs of copying and mailing.

Further, presently, it is Board policy, consistent with Section 4-206 of the Public Information Act to send a "cost letter" to a requestor indicating the cost of copying and mailing. The letter states that payment is required prior to the Board sending the requested material to assure the Board receives payment. This often takes more than seven (7) days and could be longer depending on how quickly the requestor's payment is received and cleared. Under the requirements of this bill, the Board would have to provide the requested materials in advance of payment and then hope to be paid by the requestor.

The Board would note that the Public Information Act Compliance Board and the Office of the Public Access Ombudsman issued its Final Report on the Public Information Act in December of 2019, which did not include a recommendation to shorten the time period from thirty (30) to ten (10) days for responding to a PIA request.

Should this bill be enacted, it is anticipated that several Boards and Commissions would have to hire a new full-time Health Policy Analyst Associate to meet the bill's requirements. As a consequence, there will be a substantial fiscal impact resulting from the enactment of HB 42.

For these reasons, the Maryland Board of Physicians, the Board of Nursing, the Board of Acupuncture, Board of Examiners of Audiologists, Hearing Aid Dispensers, & Speech Language Pathologists, the Board of Dental Examiners, the Board of Massage Therapy Examiners, the Board of Morticians and Funeral Directors, the Board of Examiners of Nursing Home Administrators, the Board of Podiatric Medical Examiners, the Board of Professional Counselors and Therapists, the Board of Examiners of Psychologists and the Board of Social Work Examiners opposes HB 42 and urge an unfavorable report.

For more information, please contact Wynee Hawk, Manager, Policy and Legislation, Maryland Board of Physicians, 410-764-3786 or Lillian Reese, Boards & Commissions, 410-764-5978.

The opinion of the Boards expressed in this document does not necessarily reflect that of the Maryland Department of Health or the Administration.