

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 269

(Delegate Nathan-Pulliam)

Health and Government Operations

Education, Health, and Environmental Affairs

State Board of Nursing - Powers and Duties - Licensing, Certification, and Regulation

This emergency bill delays the requirement for State Board of Nursing existing licensees and certificate holders to submit to a criminal history records check and provide the board written, verified evidence that they have done so from January 2008 to July 2009. In addition, the bill allows for the extension of temporary licenses and authorizes an additional method of securing criminal records checks.

Fiscal Summary

State Effect: The bill's requirements could be handled with existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary:

Registered Nurses and Licensed Practical Nurses

An applicant whose nursing education program was completed five or more years before passing the licensure examination and who has not practiced for at least 1,000 hours in the previous five years may only be issued an inactive license until evidence has been submitted to the board that the applicant has successfully completed • a nursing review

course approved by the board; or • a preceptorship program provided by an employer and approved by the board.

The board may grant a 90-day extension of a *temporary* license pending receipt of criminal history record information. In addition, the board may grant two 90-day extensions beyond a license's expiration date pending receipt of criminal history record information.

The bill repeals a requirement that the board adopt regulations establishing categories of skilled nursing assistants in licensed Developmental Disabilities Administration alternative living units, and instead applies this requirement to DDA group homes.

Nursing Assistants and Medication Technicians

The bill increases from 60 to 90 the number of days that a temporary practice certificate is valid unless the board suspends or revokes it before that time. Further, a temporary practice certificate may be extended up to an additional 90 days if the applicant is waiting for his or her criminal history records information. The board may grant two 90-day extensions beyond a certificate's expiration date pending receipt of criminal history record information.

A medication technician graduate may not practice more than 90 days from the date of completing a medication technician training program without board certification.

Central Repository

During the process of submitting information to the Central Repository for a criminal records check, if an applicant has made two or more attempts at securing required legible fingerprints, the board may accept an alternate method of criminal history records checks as permitted by the director of the Central Repository and the director of the Federal Bureau of Investigation. The board will begin the process of requiring criminal records checks on existing certificate and license holders starting in July 2009 rather than January 2008.

Current Law:

Registered Nurses and Licensed Practical Nurses

An applicant who otherwise qualifies for a license as a registered nurse or licensed practical nurse has to be examined for that license. The board gives examinations at least once a year and determines the subjects, scope, form, and passing score for each examination. An applicant who fails an exam can retake it if he or she pays the fee set by

the board. The board may limit the number of times an applicant may be reexamined after two failures and may limit the interval of time between reexaminations. The board may not issue a license or a certificate if it has not received the required criminal history record information.

A license expires on the last day of the birth month of the licensee, unless the license is renewed for a one-year term. The board may grant a licensee a 30-day extension beyond a license's expiration date so that the licensee can renew the license before it expires.

The board may issue a temporary license to any applicant who • submits to a criminal history records check; • is licensed by any other state; • submits required application documentation to the board; and • pays the fee required by the board. A temporary license may not be renewed. Further, the board must revoke a temporary license or certificate if the criminal history record information forwarded to the board reveals that the applicant, certificate holder, or licensee has been convicted or pled guilty or *nolo contendere* to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

Nursing Assistants and Medication Technicians

The board has to issue a certificate to an applicant who meets specific requirements. In addition, the board is required to issue a temporary practice certificate to an applicant who • has met certification requirements that satisfy the board; • does not have a criminal record and has not been the subject of a health professional disciplinary action in Maryland or another jurisdiction; and • does not have a criminal charge or health professional disciplinary action pending in this State or another jurisdiction. Unless the board suspends or revokes a temporary practice certificate, the certificate expires 60 days after it is issued.

A certificate expires on the twenty-eighth day of the birth month of the nursing assistant or medication technician, unless the certificate is renewed for a two-year term. The board can grant a 30-day extension beyond a certificate's expiration date so that the holder may renew the certificate before it expires.

Central Repository

The "Central Repository" is the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services. As part of an application to the Central Repository for a State and national criminal history records check, an applicant has to submit to the Central Repository:

- two complete sets of legible fingerprints taken on forms approved by the director of the Central Repository and the director of the Federal Bureau of Investigation;
- the fee to access State criminal history records; and
- the processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

The Central Repository then forwards the applicant's criminal history record information to the board. Information obtained is confidential and used only for licensing purposes. The board is required to begin the process of conducting criminal records checks on existing certificate and license holders and applicants in January 2008.

Background: The Board of Nursing regulates the practice of registered nurses, licensed practical nurses, nurse anesthetists, nurse midwives, nurse practitioners, nursing assistants, medication technicians, and electrologists. The board regulated almost 150,000 professionals in 2007.

The board began requiring criminal history records checks of all new registered nurses, licensed practical nurses, and certified nursing assistant applicants in January 2007, although they were required to begin in October 2006. The board has reviewed 15,642 criminal history records checks since the program's inception. The board has not started conducting the checks on existing certificate and license holders during the renewal process that was scheduled for January 2008.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Department of Legislative Services

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