

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 134 (Senator Nathan-Pulliam, *et al.*)
Education, Health, and Environmental Affairs

State Board of Nursing - Criminal History Records Checks - Certified Nursing Assistants and Certified Medication Technicians

This bill requires an initial applicant for certification as a certified medication technician, beginning January 1, 2020, to submit to a criminal history records check (CHRC). A certified medication technician certified before the effective date of the bill must obtain a CHRC as a condition of renewal for the first renewal that occurs on or after the effective date of the bill. The State Board of Nursing (BON) must also require a CHRC for selected certified medication technicians on renewal (as determined by regulations adopted by BON) and each former certified medication technician who files for reinstatement. The bill also makes clarifying, technical, and conforming changes relating to CHRCs for certified nursing assistants. The bill applies prospectively and may not be interpreted to require any certified medication technician or applicant for certification as a medication technician to obtain a CHRC before the bill's October 1, 2019 effective date.

Fiscal Summary

State Effect: BON special fund expenditures increase by \$148,800 in FY 2020 to hire staff and make programing changes, as discussed below. Regulations can be adopted with existing resources. Revenues are not affected.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	148,800	150,200	135,300	121,700	125,700
Net Effect	(\$148,800)	(\$150,200)	(\$135,300)	(\$121,700)	(\$125,700)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill is not anticipated to impact local government finances or operations.

Small Business Effect: None.

Analysis

Current Law: BON requires all applicants for initial certification as a certified nursing assistant to submit to a CHRC. BON must require a CHRC from (1) selected applicants for certification as a certified nursing assistant who renew their certificates every two years as determined by regulations adopted by BON; and (2) each former certified nursing assistant who files for reinstatement after failing to renew the certificate for a period of 1 year or more. An additional CHRC must be performed every 12 years thereafter.

BON must establish a “rap back” program, beginning January 1, 2015, through which the Central Repository reports all new and additional criminal history record information (CHRI) to BON for an applicant who has been fingerprinted.

Background: The Criminal Justice Information System Central Repository (CJIS-CR) is established by the Criminal Procedure Article, §§ 10-213 *et seq.*, within the Department of Public Safety and Correctional Services to collect, manage, and disseminate Maryland CHRI for criminal justice and noncriminal justice (*e.g.*, employment and licensing) purposes.

CJIS-CR is authorized by law to collect a fee for providing CHRI for purposes other than criminal justice. The Code of Maryland Regulations 12.15.01.15 sets the fee at \$18. An additional \$20 fingerprinting fee is also collected. The Federal Bureau of Investigation (FBI) charges a fee of \$13.25 for a national CHRI check. Revenue from these fees is used to provide the service. CJIS-CR collects the fee from the applicant and reimburses the FBI. CJIS-CR submits requests for national criminal records to the FBI electronically.

Generally, if CHRI is reported to CJIS-CR after the initial CHRC, CJIS-CR must provide a revised statement of the individual’s criminal history record to the appropriate entity. The cost of this State “rap back” program is included in the cost of the initial CJIS-CR fee.

BON advises that, as of January 2019, there are 64,489 certified nursing assistants and 37,157 certified medication technicians in the State.

State Expenditures: BON advises that, in order to process additional CHRC results, it will need to hire one additional contractual staff for a period of two years and three additional permanent staff at a cost of approximately \$200,000 annually. This estimate is based on the need to conduct 14,000 additional CHRC reviews per year. However, BON did not provide sufficient information to explain this estimate. The Department of Legislative Services (DLS) advises that, while processing the additional CHRCs will require programming changes and additional staff, expenditures may be significantly less than this estimate based on the number of reviews currently performed for certified nursing assistants (approximately 20% of the total certified nursing assistant population).

BON advises that it conducted 28,000 CHRC reviews in 2018 with five permanent staff (an average of 5,600 reviews per staff member), but notes that such a workload was difficult to maintain. DLS estimates that three additional staff would be sufficient to handle the increased number of reviews required under the bill, and only two staff would likely be required to continue after January 2022 following the initial surge of reviews. Additional staff may be required if the number of reviews required is significantly higher than expected.

Thus, DLS estimates that special fund expenditures for BON increase by approximately \$148,752 in fiscal 2020 to reflect the cost of hiring two full-time administrative specialists and one contractual administrative specialist to assist with processing CHRC reviews. This estimate also includes \$20,000 in fiscal 2020 to update BON licensing software to track CHRC results. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Permanent Positions	2
Contractual Position	1
Salaries and Fringe Benefits	\$107,614
Programing Costs	20,000
One-time Start-up Expenses	14,670
Ongoing Operating Expenses	<u>6,468</u>
Total FY 2020 Special Fund Expenditures	\$148,752

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses, and elimination of the contractual position in fiscal 2022. This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

To the extent the number of background reviews required is low, the contractual administrative specialist may not be required and expenditures may be reduced.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Health; Department of Public Safety and Correctional Services; Department of Legislative Services

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