

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**April 4, 2005**

**TO:** Honorable Helen Giddings, Chair, House Committee on Business & Industry

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB3281** by Thompson (Relating to financial arrangements between referring health care providers and providers of designated health services and supplies; providing penalties.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3281, As Introduced: a negative impact of (\$121,076) through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2006	(\$55,276)
2007	(\$65,800)
2008	(\$65,800)
2009	(\$65,800)
2010	(\$65,800)

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable (Cost) from GENERAL REVENUE FUND 1</b>	<b>Change in Number of State Employees from FY 2005</b>
2006	(\$55,276)	1.0
2007	(\$65,800)	1.0
2008	(\$65,800)	1.0
2009	(\$65,800)	1.0
2010	(\$65,800)	1.0

**Fiscal Analysis**

The bill would prohibit a health care provider from referring a patient for health services or supplies to a person in which the provider is directly or indirectly an investor or has an investment interest. A person who bills for a service pursuant to a prohibited referral is subject to a civil penalty of not more than \$15,000 for each violation. A provider who enters into an agreement or arrangement to provide referrals that would be prohibited is subject to a civil penalty of \$100,000 for each agreement. The licensing authority that regulates the provider is authorized to bring action to impose and collect these penalties. If there is no licensing authority, the attorney general may bring the action and collect the penalties. The bill specifies that penalties collected must be maintained in a segregated account outside of the state treasury and used to enforce the requirements of the bill.

Exemptions for certain referrals are made for providers in certain settings.

A health care provider who makes allowed referrals to a person in which the provider is an investor or has an investor interest and the person to whom the referrals are made shall provide a quarterly report on the number of referrals and claims data for those referrals to the Department of State Health Services (DSHS). These providers shall pay DSHS a \$500 fee for the initial disclosure of referral data.

### **Methodology**

According to DSHS, overseeing the requirements of the bill would necessitate one FTE, a Program Specialist III. The FTE would develop reporting forms, contact providers for information, work with licensing boards to impose and collect penalties, work with providers to determine the nature of their disclosures and make a determination on the merits of disclosure, collect initial disclosure fees of \$500, and maintain a fiscal accounting of the collection and use of the fees. Existing agency resources at both DSHS and the Health and Human Services Commission would be utilized to develop rules, consult with attorneys, comply with open meeting laws, and otherwise administer the program.

According to DSHS, salary costs of the new FTE are \$35,276 in 2006 and \$47,034 in subsequent years. Benefits total \$10,491 in 2006 and \$13,988 in subsequent years. Rent and utilities are \$2,273 in 2006 and \$3,031 in subsequent years. Other operating expenses are \$6,333 in 2006 and \$1,097 in subsequent years. Computer hardware is \$903 in 2006 and \$650 in subsequent years.

The Office of the Attorney General, the Department of Insurance, and the Board of Medical Examiners all indicate that any additional work necessitated by this bill could be absorbed within existing resources.

DSHS is unable to estimate how many providers would pay the \$500 initial disclosure fee and is also unable to estimate how many providers would be in violation of the provisions of the bill. Therefore, it is unknown how much revenue would be collected from the \$500 disclosure fee or any potential penalties that may be assessed. It should be noted that revenues from the \$500 initial disclosure fee could partially or wholly offset the costs of the additional FTE.

### **Technology**

Computer hardware costs total \$903 in 2006 and \$650 in subsequent years.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 302 Office of the Attorney General, 454 Department of Insurance, 503 Board of Medical Examiners, 529 Health and Human Services Commission, 537 Department of State Health Services

**LBB Staff:** JOB, JRO, PP, LW