

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 18, 2005

TO: Honorable David Dewhurst, Lieutenant Governor, Senate

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

IN RE: SB419 by Nelson (Relating to the continuation and functions of the Texas State Board of Medical Examiners, Texas State Board of Physician Assistant Examiners, and Texas State Board of Acupuncture Examiners and the regulation of health care professions regulated by those state agencies; providing administrative penalties.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for SB419, As Passed 2nd House: a negative impact of (\$55,146) 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:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	\$65,954
2007	(\$121,100)
2008	(\$121,100)
2009	(\$121,100)
2010	(\$121,100)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable Revenue (Loss) from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable Savings from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable (Cost) from <i>GENERAL REVENUE</i> <i>FUND</i> 1
2006	\$401,046	(\$121,100)	\$5,928	(\$219,920)
2007	\$212,072	(\$121,100)	\$5,928	(\$218,000)
2008	\$212,072	(\$121,100)	\$5,928	(\$218,000)
2009	\$212,072	(\$121,100)	\$5,928	(\$218,000)
2010	\$212,072	(\$121,100)	\$5,928	(\$218,000)

Fiscal Analysis

The bill would amend the Occupations Code relating to the continuation and functions of the Texas State Board of Medical Examiners, Texas State Board of Physician Assistant Examiners, and Texas State Board of Acupuncture Examiners and the regulation of health care professions regulated by those state agencies; providing administrative penalties.

The bill would revise the Occupations Code relating to prohibited practices by a physician or license applicant by adding the following: 1) prohibiting a physician, with certain exceptions, from

performing an abortion on a woman who is pregnant with a viable unborn child during the third trimester of the pregnancy; 2) prohibiting a physician, with certain exceptions, from performing abortions on unemancipated minors without certain written consent or without a court order; and 3) requiring the Board to adopt the forms necessary for physicians to obtain the consent required for an abortion to be performed on an unemancipated minor. The bill would change the name of the Texas State Board of Physician Assistant Examiners to the Texas Physician Assistant Board. The bill would also make changes to the Occupations Code relating to board confidentiality.

The bill requires the Board to use at least two expert physician panel members to review each standard-of-care complaint. It specifies that if the first two expert physicians do not agree, the Board must use a third expert physician.

The bill authorizes staff to issue licenses currently issued under the Medical Practice Act, thus eliminating the need for temporary licenses.

The bill authorizes the Board to issue a limited license to practice medicine to applicants who have established eminence and authority in the applicant's specialty.

The bill authorizes the Board to issue a faculty temporary license to practice medicine to a physician who is appointed by a medical school and who meets certain requirements.

The bill authorizes the Board to issue a faculty temporary license to practice medicine to a physician who is appointed by a medical school and who meets certain requirements and establishes the standard renewal fee as the basis for the Physician Assistant Board's late-renewal penalties and would eliminate one of the current exemptions (use of only anxiolytics and analgesics) for registration of physicians conducting office-based anesthesia.

The bill authorizes the Board, for nonmedical or administrative complaints, to delegate to staff the authority to dismiss a complaint, enter into an agreed settlement of a complaint with a licensee, or refer a complaint to an informal hearing. Authorizing staff to handle nonmedical and administrative complaints would result in the Medical Board needing to conduct fewer informal hearings, which would result in a savings to the Board and District Review Committee member travel.

This bill would take effect September 1, 2005.

Methodology

Based on the Board of Medical Examiners (Board) analysis, approximately 800 standard-of-care complaints currently reviewed by one expert panelist would be reviewed by at least two panelists each year. Based on Board statistics it is estimated that 740 cases would be dismissed after two reviews and 60 cases would need review by a third panelist.

The first panelist's review requires four hours at a cost of \$100 per hour. The second review is estimated at one-half the cost of the first review. In the 740 cases in which the two panelists agree, the Board would incur an annual cost of \$148,000. For the 60 cases in which the first two panelists do not agree, the second panelist would write a report, spending an average of three hours on the case, at a cost of \$18,000. Review by a third panelist would add an additional cost of \$18,000. Additional mailing and copying costs would equal about \$34,000 per year, for an overall cost of \$218,000 per year. For the purpose of this analysis it is assumed that the agency would increase fees as needed to cover these additional costs.

Authorizing agency staff to issue licenses currently issued by the Medical, Physician Assistant, and Acupuncture boards would eliminate the need for temporary licenses, and result in a one-time gain in revenue of \$401,046 in fiscal year 2006, and a loss of revenue of \$121,100 in subsequent fiscal years.

According to the Board, there are approximately 2,422 temporary licenses for: physicians, physician assistants, acupuncture, and surgical assistants. The fee for all temporary licenses in fiscal year 2004 was \$50, resulting in revenue of \$121,100. In fiscal year 2006, the boards would experience a gain in revenue of \$401,046 by accelerating the collection of licensing fees in lieu of temporary licenses. Of

the 2,422 temporary licenses, 606 licensees would be expected to pay the full license fee in 2006 instead of 2007 as follows: \$ 381,524 for physicians (506 applicants times \$754 first registration fee); \$12,000 for physician assistants (75 applicants times the \$160 first registration fee); \$4,680 for acupuncturists (18 applicants times the \$260 first registration fee); \$2,842 for surgical assistants (seven applicants times the \$406 first registration fee).

Establishing the standard renewal fee as the basis for the Physician Assistant Board's late-renewal penalties would result in an estimated revenue gain of \$3,775 annually. The effect of this change is to increase the penalty for renewals up to 90 days late from \$50 to \$75 and to increase the penalty for renewals late by more than 90 days, but less than one year, from \$100 to \$150. Additional revenue of \$1,875 annually would be realized for renewals up to 90 days late (75 physician assistants times \$25 difference in late penalty) and \$1,900 annually for renewals late by more than 90 days, but less than one year (38 physician assistants times \$50 difference in late penalty).

Based on the analysis of the Medical, Physician Assistant, and Acupuncture Boards, 420 informal meetings, which require Board members and District Review Committee members to travel to Austin to attend the meetings, were conducted in fiscal year 2004. Implementing the provisions of this bill and authorizing staff to handle nonmedical complaints would result in 10 percent less informal meetings and a savings of about \$5,928.

Based on the analysis of the Board, it is assumed that the Board would adjust license fees to cover any additional costs associated with the implementation of this bill.

The Department of State Health Services indicates it could absorb the costs associated with the bill within its current resources.

Technology

The Board estimates an additional cost of \$214,510 would be needed for technology upgrades to the agency's automated information system. Database and application upgrades are needed to accommodate the issuance of new licenses, implement new licenses requirements and update the system for the increase in license registrations. Based on the analysis of the Board, it is assumed that any additional costs can be absorbed within current resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 503 Board of Medical Examiners, 537 Department of State Health Services, 781 Higher Education Coordinating Board, 304 Comptroller of Public Accounts

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