

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 2, 2007

TO: Honorable Dianne White Delisi, Chair, House Committee on Public Health

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

IN RE: **HB703** by Villarreal (Relating to the licensing and regulation of lactation consultants; providing penalties.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB703, As Introduced: a negative impact of (\$75,635) through the biennium ending August 31, 2009.

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
2008	(\$65,478)
2009	(\$10,157)
2010	\$2,275
2011	\$2,162
2012	\$2,046

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from GENERAL REVENUE FUND 1	Probable Savings/(Cost) from GENERAL REVENUE FUND 1
2008	\$0	(\$65,478)
2009	\$84,375	(\$94,532)
2010	\$61,875	(\$59,600)
2011	\$61,875	(\$59,713)
2012	\$61,875	(\$59,829)

Fiscal Analysis

The bill would amend the Occupations Code as it relates to the licensing and regulation of lactation consultants and provides penalties.

The bill would create an informal advisory committee, not subject to Chapter 2110, Government Code, to the Department of State Health Services (DSHS) for the advisement of: 1) the adoption of rules regarding lactation consultants and 2) the implementation of a licensing program.

The bill would also require DSHS to administer a new licensing program for lactation consultants and specifies all the requirements to establish and operate the program.

The Executive Commissioner would be required to establish a complaint process and adopt procedures

for documenting complaints to DSHS. DSHS would be required to, at least quarterly and until final disposition of the complaint, notify the person filing the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

DSHS would be required to contract with a nationally or internationally recognized testing organization to develop and administer at least once a year a lactation consultant examination.

DSHS would be able to impose an administrative penalty up to \$1,000 for each violation of the provision of the bill.

If a person knowingly or intentionally practices without a license or in violation of a department order, that person is liable for civil penalties not to exceed \$250 for each violation.

The bill authorizes the Executive Commissioner of the Health and Human Services Commission to request the attorney general, or district or county attorney, to bring an action restraining any violations that represent an immediate threat to the health and safety of the public. Venue for these actions is in the county where the defendant resides or in the county in which the violation occurred.

Practicing as a lactation consultant without a license would be a class B misdemeanor.

Section 2 of the bill requires the Executive Commissioner of the Health and Human Services Commission to adopt rules to implement the provisions of the bill and DSHS to prescribe forms and procedures for the licensing program not later than June 1, 2008. A person would not be required to hold a license under the provisions of the bill before September 1, 2008.

The bill would take effect September 1, 2007, except for Subchapter F (Administrative Penalty) and G (Other Penalties and Enforcement Provisions), Chapter 703, Occupations Code, which would take effect September 1, 2008.

## **Methodology**

DSHS estimates that one additional FTE would be needed under the provisions of the bill. The estimated costs associated with this additional FTE is \$49,478 in FY08, \$59,532 in FY09, \$59,600 in FY10, \$59,713 in FY11, and \$59,829 in FY12. These costs include salaries, benefits, rent, and other associated costs. DSHS also estimates that \$16,000 would be needed in FY08 for database modifications and \$35,000 in FY09 in order to conduct a comprehensive lactation consultant role deliniation study. The total cost to DSHS would be \$65,478 in FY08, \$94,532 in FY09, \$59,600 in FY10, \$59,713 in FY11, and \$59,829 in FY12.

The Office of the Attorney General, State Office of Administrative Hearings, and the Health and Human Services Commission estimate that any costs associated with the implementation of the provisions of the bill could be reasonably absorbed with current resources.

Additionally, DSHS estimates that in FY09 450 persons would apply for licensure. Of the 450 persons, 225 would receive two year initial licenses at a cost of \$250 and 225 would receive one year initial licenses at a cost of \$125. The estimated amount of revenue in FY09 is \$84,375 ((225 X \$250) + (225 X \$125)). In FY10, 225 would receive two year renewal licenses at a cost of \$275 and would result in revenue of \$61,875. According to DSHS, this staggering method would allow for steady revenue generation of \$61,875 in FY11-12 from the two year renewal licenses.

## **Technology**

The agency estimates that the technology impact would be \$16,000 in fiscal year 2008 for database modifications.

**Local Government Impact**

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

**Source Agencies:** 302 Office of the Attorney General, 360 State Office of Administrative Hearings, 529 Health and Human Services Commission, 537 State Health Services, Department of

**LBB Staff:** JOB, CL, PP, SJ