

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

March 15, 2011

TO: Honorable Lois W. Kolkhorst, Chair, House Committee on Public Health

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

IN RE: HB1924 by Zedler (Relating to the investigation and resolution of complaints filed against physicians.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1924, As Introduced: an impact of \$0 through the biennium ending August 31, 2013.

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
2012	\$0
2013	\$0
2014	\$0
2015	\$0
2016	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from General Revenue Fund 1	Probable Revenue Gain from General Revenue Fund 1
2012	(\$2,476,680)	\$2,476,680
2013	(\$2,476,680)	\$2,476,680
2014	(\$2,476,680)	\$2,476,680
2015	(\$2,476,680)	\$2,476,680
2016	(\$2,476,680)	\$2,476,680

Fiscal Analysis

The bill would amend the Occupations Code relating to the investigation and resolution of complaints filed against physicians. The bill would allow physicians the opportunity to cross examine the expert witness in an informal settlement conference (ISCs).

The bill would take effect September 1, 2011.

Methodology

According to the information provided by the Texas Medical Board (TMB) this analysis assumes the following: 1) TMB would no longer be able to continue using physicians in the active practice of medicine as expert reviewers. This is due to the fact that ISCs take place during the day and the

current physicians serving as expert panel members would not be available to testify at the ISCs since they are seeing and treating patients. Consequently, they could not be used as expert reviewers since the expert providing the review would have to be the same expert appearing at the ISC for cross-examination; 2) Under the provisions of the bill, TMB assumes it would have to establish a pool of professional experts to review all standard of care cases. Consequently, the agency would have to increase its current reimbursement rate of \$100 per hour up to \$250 per hour to the going rate for professional experts who provide in-person testimony. The lowest amount TMB currently contracts for testifying experts is \$250 per hour. Therefore, this change would increase costs by 2.5 times for expert panel reviews/reports since the experts will have to be willing to testify as part of their review of the case in addition to writing the report. For the purposes of this analysis TMB used historical information from fiscal year 2010 to show that the Board spent \$1,517,787 on expert review of standard of care cases. Under this bill, the total would be \$3,794,467, an increase of \$2,276,680 per year; and 3) TMB would have to pay the professional experts for the time that they spend testifying at ISCs. In fiscal year 2010, the Board held 617 such hearings for physicians, and approximately 400 involved standard of care cases and would require cross examination of experts under this bill. For each hearing, it is estimated at least two hours of time would have to be expended for preparation and actual testimony (at \$250 per hour). This would incur additional costs of at least \$200,000 per fiscal year.

According to the analysis by TMB, implementation of this bill could impact the agency's ability to generate the necessary fee revenue due to the statutory caps on biennial license registration. However, it is assumed that the Board would adjust license fees to cover any additional costs associated with the implementation of the bill based on the analysis of the agency.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 503 Texas Medical Board

LBB Staff: JOB, CL, MW, NV