

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 2, 2017

TO: Honorable Four Price, Chair, House Committee on Public Health

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB3040** by Burkett (Relating to the continuation and functions of the Texas Medical Board; authorizing a fee.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3040, Committee Report 1st House, Substituted: a positive impact of \$120,971 through the biennium ending August 31, 2019.

It is estimated there would be a positive impact of \$52,400 through the biennium ending August 31, 2019 to General Revenue-Dedicated Public Assurance Account 5105.

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
2018	\$141,543
2019	(\$20,572)
2020	\$39,428
2021	\$39,428
2022	\$39,428

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from Public Assurance 5105	Probable Savings/(Cost) from Appropriated Receipts 666
2018	(\$20,000)	\$161,543	\$30,400	(\$132,250)
2019	(\$60,000)	\$39,428	\$22,000	(\$132,250)
2020	\$0	\$39,428	\$22,000	(\$4,000)
2021	\$0	\$39,428	\$22,000	(\$4,000)
2022	\$0	\$39,428	\$22,000	(\$4,000)

Fiscal Year	Probable Revenue Gain/(Loss) from <i>Appropriated Receipts</i> 666
2018	\$132,250
2019	\$132,250
2020	\$4,000
2021	\$4,000
2022	\$4,000

Fiscal Analysis

The bill would amend the Occupations Code relating to the continuation and functions of the Texas Medical Board (TMB); authorizing a fee.

The bill would continue the agency for twelve years until September 1, 2029.

The bill would permit TMB to establish a risk-based inspection process and require TMB to maintain a record of certain information relating to outpatient anesthesia.

The bill would require the TMB to periodically check prescribing information submitted by licensees to the Texas State Board of Pharmacy (TSBP) in the Prescription Monitoring Program to determine whether a licensee is engaging in potentially harmful prescribing patterns or practices. The bill requires TMB, in coordination with TSBP, to determine conduct that constitutes such patterns or practices. The bill permits TMB, if it suspects that a licensee is engaging in such patterns or practices, to notify the licensee and to initiate a complaint against the licensee.

The bill would require TMB to enter into a Memorandum of Understanding with the Texas Physician Health Program (TPHP) to establish performance measures, list the services the TMB would provide for the program, and require an internal audit of the program once every three years. The bill would permit the TPHP to receive gifts, grants, and donations.

The bill permits TMB to inspect non-certified pain management clinics. The bill would require TMB to adopt the Interstate Medical Licensure Compact (IMLC). The bill would permit TMB to establish a radiologist assistant certificate and establish education and training requirements for the license. The bill would eliminate the dual registry of the noncertified radiologic technicians at separate regulatory agencies. The bill would permit the board to extend the validity of a physician assistant license and an acupuncturist license issued by the agency from one year to two years through board rule.

The bill would require that certain applicants for licensure submit fingerprints to the board or the Department of Public Safety (DPS) for the purpose of a criminal history record check from the Department of Public Safety and Federal Bureau of Investigation. The bill would allow the board to enter into an agreement with DPS to administer the criminal history check and authorize DPS to collect from applicants an amount to cover the costs incurred by the agency in conducting the criminal history check. The bill would require all current licensees who have not undergone a criminal history check to do so by September 1, 2019.

The bill would continue to have the State Board of Dental Examiners (SBDE) require an authorized person who performs certain radiologic procedures to register with the agency. Under the provisions of the bill, SBDE would continue to establish fees to cover the administrative costs associated with the registration program, establish grounds for suspension of registration, and establish training and supervision standards.

The bill would take effect on September 1, 2017.

Methodology

According to TMB, costs associated with changes to the agency's licensure database and website in order to receive and process applications for IMLC licenses and implement the regulation of the radiologic assistant certificate would require 640 hours of programming and business process analysis at \$125 per hour of consultation and implementation (\$80,000 in General Revenue for the biennium). TMB estimates the information technology costs would be approximately \$20,000 in fiscal year 2018 and \$60,000 in fiscal year 2019.

According to information provided by the TMB and the Comptroller of Public Accounts (CPA), the adoption of the IMLC would provide an estimated 455 existing or new physicians per year in Texas would apply for the interstate licensure in fiscal year 2018, for which the fee remitted to the agency would be \$300. This would yield \$136,500 in revenue to the General Revenue Fund in fiscal year 2018. In fiscal year 2019 and beyond, TMB and CPA estimated 178 ongoing applications for the interstate licensure per year, which would yield \$53,400 in revenue to the General Revenue Fund per fiscal year. TMB and CPA anticipate receiving 380 out of state applications for interstate licensure in Texas, for which the fee remitted to the agency would be \$464, \$80 of which is required to be remitted to General Revenue-Dedicated Public Assurance Account 5105. This would yield \$145,920 in revenue to the General Revenue Fund and \$30,400 in General Revenue-Dedicated Fund 5105 in fiscal year 2018. The estimate assumes TMB will receive 275 out of state applications for interstate licensure per fiscal year in fiscal year 2019 and beyond, which would result in a gain of \$105,600 in General Revenue and \$22,000 in General Revenue-Dedicated Fund 5105 per fiscal year thereafter.

TMB anticipates an initial 40 applicants in fiscal year 2018 (at a fee of \$130.50 per licensee) for licensure of the Radiologist Assistant Certificate, resulting in a gain of \$5,220 in General Revenue. TMB anticipates an additional 10 new applicants and 40 renewals per year after fiscal year 2018 (at a fee of \$130.50 per licensee) for licensure of the Radiologist Assistant Certificate, resulting in a gain of \$6,525 in General Revenue in each fiscal year after 2018.

Based on information provided by the Sunset Advisory Commission (SAC), the elimination of dual registration of the noncertified technicians certificate would result in a total revenue loss of \$126,097 in General Revenue across three agencies: TMB, Texas Board of Podiatric Medical Examiners (TBPME), and the Texas Board of Chiropractic Examiners (TBCE). TMB anticipates 944 noncertified technicians applying for and renewing certificates through the agency for a fee of \$130.50 per certificate; therefore the elimination of the dual registration of the certificate would result in a loss of \$123,192 in General Revenue each fiscal year beginning in fiscal year 2018. TBPME anticipates 4 noncertified technicians applying for and renewing certificates through the agency at a fee of \$35 per certificate, resulting in a loss of \$140 in General Revenue in each fiscal year beginning in fiscal year 2018. TBCE anticipates 79 noncertified technicians applying for and renewing certificates through the agency at a fee of \$35 per certificate, resulting in a loss of \$2,765 in each fiscal year beginning in fiscal year 2018.

Based on information provided by TMB, it is assumed that the agency would not conduct fingerprint-based background checks on interstate licensure licensees as the licensees would likely provide adequate criminal history information. This analysis assumes that TMB currently conducts finger-based background checks for all new licensees with the exception of acupuncturists and surgical assistants. Based on information provided by the CPA, approximately

9,500 current licensees including acupuncturists, surgical assistants, and physician assistants, would need to obtain a background check upon renewal. It is assumed that current licensees without a finger-based background check would be screened over the next two years to meet the requirements of the bill. The Department of Public Safety (DPS) charges applicants \$27 to perform a finger print based background check to cover the cost to DPS to obtain state and national criminal history record information, which results in both a gain and an offsetting cost to Appropriated receipts at DPS. Based on the number of applicants and assumed implementation of the requirement, it is estimated that there will be a total gain and offsetting cost to Appropriated Receipts at DPS of \$132,250 each year in fiscal year 2018 and 2019 (\$128,250 for 4,750 current licensees and \$4,000 for 150 new licensees). Each fiscal year beginning with fiscal year 2020 would have a gain and offsetting cost to Appropriated Receipts at DPS of \$4,000 each fiscal year for only the new licensees.

This analysis assumes that the adoption of a biennial license renewal schedule would affect the timing of revenue collection, but would have minimal effect on the amount of revenue collected for the biennium.

Based on information provided by the TSBP, it is assumed the periodic check of prescribing information to determine whether a licensee is engaging in potentially harmful prescribing patterns or practices would require a query of information by the administrator of the program at TSBP. Based on the LBB's analysis of TSBP, duties and responsibilities associated with implementing the provisions of this bill at TSBP could be accomplished by utilizing existing resources.

The SBDE, Office of the Attorney General, the Comptroller of Public Accounts, the Office of the Governor, the Office of Court Administration and the State Office of Administrative Hearings anticipate any costs related to implementing the provisions of this bill could be absorbed within current appropriations.

Technology

Included in amounts above are information technology costs of \$20,000 in fiscal year 2018 and \$60,000 in fiscal year 2019 in order to receive and process applications for Interstate Compact licenses and implement the regulation of the new license type.

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, 304 Comptroller of Public Accounts, 503 Texas Medical Board, 504 Texas State Board of Dental Examiners, 302 Office of the Attorney General, 360 State Office of Administrative Hearings, 405 Department of Public Safety, 508 Board of Chiropractic Examiners, 512 Board of Podiatric Medical Examiners, 515 Board of Pharmacy, 301 Office of the Governor

LBB Staff: UP, EK, KCA, EH, NV, KVe