

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

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 22, 2019**

**TO:** Honorable Dennis Bonnen, Speaker of the House, House of Representatives

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
 Legislative Budget Board

**IN RE:** **HB2174** by Zerwas (Relating to controlled substance prescriptions and reimbursement for treatment for certain substance use disorders; authorizing a fee.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2174, As Passed 2nd House: an impact of \$0 through the biennium ending August 31, 2021.

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
2020	\$0
2021	\$0
2022	\$0
2023	\$0
2024	\$0

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

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2019
2020	(\$57,360)	\$57,360	1.0
2021	(\$57,360)	\$57,360	1.0
2022	(\$57,360)	\$57,360	1.0
2023	(\$57,360)	\$57,360	1.0
2024	(\$57,360)	\$57,360	1.0

## **Fiscal Analysis**

The bill would amend the Government Code, Health and Safety Code, and Human Resources Code as they relate to controlled substance prescriptions under the Texas Controlled Substances Act.

The provisions of the bill would amend dispensing requirements related to controlled substances to require electronic prescriptions in certain circumstances and authorize written prescriptions and oral or telephonic communication of prescriptions by a prescriber or designated agent in certain circumstances.

The bill would authorize certain regulatory agencies to grant waivers to electronic prescribing of controlled substances for practitioners and would amend continuing education requirements related to opioid prescription limits.

Under the provisions of the bill, the limits on prescription drugs and medications under the medical assistance program would not apply to a prescription for an opioid for initial treatment of acute pain.

The bill would require the Health and Human Services Commission (HHSC) to provide medical assistance reimbursement for certain medication-assisted opioid or substance abuse disorder treatments without requiring prior authorization or precertification and to amend certain policies to authorize Medicaid reimbursement for the prescribing of buprenorphine for the treatment of an opioid use disorder by an advanced practice registered nurse meeting certain Texas Board of Nursing and federal requirements.

The bill would take effect September 1, 2019.

## **Methodology**

Under the provisions of the bill, the Board of Nursing would be authorized to grant waivers to electronic prescribing of controlled substances for practitioners and would be required to amend continuing education requirements related to opioid prescription limits.

The agency indicates that to implement the provisions of the bill, it would develop a process for approving waivers, coordinate with other regulatory agencies to standardize the submission and approval of waivers, and would develop a new continuing education course and process for confirming licensees complete the course within the required time frame.

To implement the provisions of the bill, the Board of Nursing estimates that it would require an additional FTE and a cost of \$57,360 in General Revenue in fiscal year 2020 and each subsequent fiscal year. This analysis assumes that any increased cost to the Board of Nursing, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase in fee generated revenue.

This analysis assumes that any system modifications to the vendor drug claims processing system, Claims Administrator and auxiliary technology services, and other technology services at HHSC, could be absorbed within existing agency resources. HHSC indicates that requiring Medicaid reimbursement for medication-assisted opioid or substance use disorder treatment without requiring a prior authorization or pre-certification could result in a loss of supplemental Medicaid drug rebates.

The Comptroller of Public Accounts, Department of Public Safety, Texas Medical Board, Board of

Dental Examiners, Board of Pharmacy, and Board of Veterinary Medical Examiners indicate they could implement the provisions of the bill within existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 515 Board of Pharmacy, 529 Health and Human Services Commission, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 503 Texas Medical Board, 504 Texas State Board of Dental Examiners, 507 Texas Board of Nursing, 578 Board of Veterinary Medical Examiners

**LBB Staff:** WP, AKi, EP, MDI, SGr, ESt, LCO