

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 20, 2021

TO: Honorable Stephanie Klick, Chair, House Committee on Public Health

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1524 by Lucio III (Relating to the prescribing and ordering of Schedule II controlled substances by certain advanced practice registered nurses and physician assistants.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1524, As Introduced : an impact of \$0 through the biennium ending August 31, 2023.

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:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2022	\$0
2023	\$0
2024	\$0
2025	\$0
2026	\$0

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from General Revenue Fund 1
2022	(\$235,800)	\$235,800
2023	(\$235,800)	\$235,800
2024	(\$235,800)	\$235,800
2025	(\$235,800)	\$235,800
2026	(\$235,800)	\$235,800

Fiscal Analysis

The bill would amend the Occupations Code as it relates to the ability of physicians to delegate to certain advanced practice registered nurses (APRNs) and physician assistants (PAs) the authority to prescribe or order certain drugs. The bill would expand the list of medications that can be delegated to include Schedule II controlled substances.

Methodology

Based upon analysis of historical data collected following the Drug Enforcement Administration's reclassification of certain schedule substances in 2014, the Texas Medical Board (TMB) and the Board of Nursing (BON) both anticipate that there will be increases in complaints received associated with potential Schedule II prescribing violations involving physician assistants (PAs) and advanced practice registered nurses (APRNs). TMB also anticipates an increase in complaints against physicians for potential delegation violations.

TMB projects that there will be approximately 30 new complaints against PAs and 20 new complaints against physicians related to potential Schedule II violations each fiscal year, amounting to \$120,400 in total potential enforcement costs associated with complaints involving PAs and \$115,400 for those involving physicians. Of these 50 new complaints, the agency anticipates 30 to progress from expert review to Informal Settlement Conferences (ISCs) and 4 to progress from ISCs to State Office of Administrative Hearings (SOAH) proceedings.

The agency reports that prescribing and delegation complaints involve standard of care violations which require expert review. Based upon the estimated increase in cases, expert reviewer remuneration expenses could total \$85,000 yearly. Current statute requires two TMB board members to participate in the next step, ISC proceedings. Board members are located across the state and travel to execute these duties, generating expenses which the agency is obligated to cover. TMB approximates the average expenses for both board members combined for necessary ISC days to be \$7,200 per fiscal year. Further expenses associated with State Office of Administrative Hearings (SOAH) proceedings, including supplemental expert services, the collection of depositions, and the creation of required transcripts, are estimated by TMB to cost \$143,600 each fiscal year.

BON anticipates being able to absorb the costs associated with additional APRN complaints within existing resources given the size of the impacted licensee population. Other agencies affected by provisions of this bill also anticipate being able to absorb associated costs.

This analysis assumes that the Texas Medical Board would collect sufficient revenue to offset any costs associated with the implementation of the bill.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 360 Office Adm Hearings, 503 Texas Medical Board, 507 Texas Board of Nursing, 515 Board of Pharmacy, 529 Hlth & Human Svcs Comm, 537 State Health Services

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