

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

March 12, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1190 by Klick (Relating to the prescribing and ordering of Schedule II controlled substances by certain advanced practice registered nurses and physician assistants.), **As Introduced**

Estimate Two-year Net Impact to General Revenue Related Funds for HB1190, As Introduced: an impact of \$0 through the biennium ending August 31, 2025.

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 <i>General Revenue Related Funds</i>
2024	\$0
2025	\$0
2026	\$0
2027	\$0
2028	\$0

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1
2024	(\$228,600)	\$228,600
2025	(\$228,600)	\$228,600
2026	(\$228,600)	\$228,600
2027	(\$228,600)	\$228,600
2028	(\$228,600)	\$228,600

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 fiscal year 2014 by the Texas Medical Board (TMB), this estimate assumes that there will be increases in complaints received associated with potential Schedule II prescribing violations involving physician assistants (PAs) and an increase in complaints against physicians for potential delegation violations.

TMB anticipates that under the bill's provisions there would be 30 new complaints against PAs and 20 new complaints against physicians related to potential Schedule II violations each fiscal year. Of these 50 new complaints, the agency anticipates four to progress to State Office of Administrative Hearings (SOAH) proceedings. The agency reports that prescribing and delegation complaints involving standard of care violations require expert review. Based upon the estimated increase in cases, expert reviewer remuneration expenses would total \$85,000 annually. Further expenses associated with SOAH proceedings, including supplemental expert services, the collection of depositions, and the creation of required transcripts, are estimated to cost \$143,600 each fiscal year.

The annual fiscal impact of potential enforcement and SOAH-related costs associated with complaints involving PAs is \$116,800 and \$111,800 for those involving physicians resulting in total costs of \$228,600 each fiscal year.

Based on the analysis of the Texas Board of Nursing, The Board of Pharmacy, The Health and Human Services Commission, and the Department of State Health Services, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

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 significant fiscal implication to units of local government is anticipated.

Source Agencies: 503 Texas Medical Board, 507 Texas Board of Nursing, 515 Board of Pharmacy, 529 Health and Human Services Commission, 537 State Health Services, Department of

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