

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 25, 2023

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1998 by Johnson, Julie (Relating to the regulation of physicians and the disciplinary authority of the Texas Medical Board; increasing a criminal penalty; imposing a surcharge.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1998, As Passed 2nd House : 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>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2024	\$0
2025	\$0
2026	\$0
2027	\$0
2028	\$0

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from General Revenue Fund 1</i>	<i>Probable Revenue Gain/(Loss) from General Revenue Fund 1</i>	<i>Probable Savings/(Cost) from Public Assurance 5105</i>	<i>Probable Revenue Gain/(Loss) from Public Assurance 5105</i>
2024	(\$173,092)	\$173,092	(\$1,124,560)	\$1,124,560
2025	(\$172,703)	\$172,703	(\$1,120,451)	\$1,120,451
2026	(\$172,881)	\$172,881	(\$1,120,896)	\$1,120,896
2027	(\$173,061)	\$173,061	(\$1,121,346)	\$1,121,346
2028	(\$173,243)	\$173,243	(\$1,121,801)	\$1,121,801

<i>Fiscal Year</i>	<i>Probable Revenue Gain from Physicians Health Program 5147</i>	<i>Change in Number of State Employees from FY 2023</i>
2024	\$615,000	7.0
2025	\$720,000	7.0
2026	\$773,000	7.0
2027	\$777,000	7.0
2028	\$832,000	7.0

Fiscal Analysis

The bill would amend the Occupations Code to require the Texas Medical Board (TMB) to annually subscribe each licensee to the National Practitioner Data Bank's (NPDB) continuous query feature. The bill would authorize TMB to set a new surcharge to cover the cost of these annual subscriptions. The bill would require TMB to maintain publicly available physician profiles that would be updated with the information found in these queries regarding disciplinary action against the physician and the history of a physician's license in other states. The bill would also require TMB to submit a set of fingerprints of all licensees who do not have fingerprints on file to the Department of Public Safety for the purposes of a criminal background check. Additionally, the bill would eliminate the \$1,200 annual participation fee for the Texas Physicians Health Program (TXPHP) paid by program participants and replace it with a \$15 surcharge due at the time of license issuance or registration permit renewal for all licensed physicians and physician's assistants.

The bill would increase the penalty for making a false statement in a license application or under oath to obtain a medical license from a Class A misdemeanor to a felony if the intent is to defraud or harm another.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either in, with, or outside of the Treasury, or create a dedicated revenue source. Legislative policy, implemented as Government Code 403.095, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

The bill would take effect September 1, 2023.

Methodology

Based on information provided by the Texas Medical Board, this estimate assumes that at a cost of \$2.50 per licensee for an annual continuous query, implementing the provision of the bill to subscribe each licensee would cost \$500,000 each fiscal year. If the continuous query results in new information, it costs an additional \$2.50 to access the new report, this estimate assumes costs associated with new information discovery would be \$250,000. In total, the continuous queries with the NPDB would cost \$750,000 each year.

In addition, this estimate assumes TMB will require additional staffing to implement the provisions of the bill relating to the NPDB. TMB would require the 5.0 additional full-time equivalent (FTE) positions: 2.0 License and Permit Specialists FTEs (annual salary of \$48,024 with estimated benefits of \$15,286) to conduct a daily review of the system, 2.0 Administrative Assistant FTEs (annual salary of \$32,320 with estimate benefits of \$10,287) to update the physician profiles, and a Program Supervisor FTE (annual salary of \$62,817 with estimated benefits of \$19,994) to be the point of contact for all NPDB matters. These FTEs have an annual cost of \$341,960 with a one-time cost of \$32,600 in fiscal year 2024.

Based on information provided by TMB, there are approximately 73,500 physicians that would need to be re-fingerprinted. This estimate assumes that implementing the fingerprinting requirements of the bill would require 2.0 additional License and Permit Specialist FTEs (annual salary of \$55,096 with estimate benefits of \$15,537) to review any background checks that produces any findings. These FTEs would have combined annual cost of \$164,192 with a one-time cost of \$8,900 in fiscal year 2024.

This analysis assumes that any increased cost to TMB above would be offset by an increase in fee-generated revenue because they are statutorily required to generate sufficient revenue to cover the costs of operation. Additionally, the bill authorizes TMB to set an additional surcharge to cover the cost of administering the continuous queries with the National Practitioner Data Bank to be deposited to the credit of General Revenue Dedicated Account No. 5105, Public Assurance. According to the Comptroller of Public Accounts, this new surcharge fee is estimated to provide \$1,000,000 each fiscal year in additional revenue to the Public Assurance account.

Based on the analysis of the Texas Medical Board and the Comptroller of Public Accounts, this estimate assumes that the bill would have a significant positive impact on the revenue deposited into the

General Revenue Dedicated Account No. 5147, Texas Physicians Health Program Fund. This fund acts as the dedicated funding source for the Texas Medical Board's Physician Health Program (TXPHP).

Under current law the TXPHP is funded by a \$1,200 annual fee paid by approximately 300 participants in the program, which is expected to generate \$360,000 in fiscal year 2024. This estimate assumes that participation for the TXPHP would remain consistent and generate similar amounts of revenue in future years. The bill would eliminate this fee and replace it with a \$15 surcharge due at the time of license issuance or registration permit renewal for all 64,981 licensed physicians and physician's assistants. This new surcharge is estimated to generate approximately \$1,000,000 in revenue in fiscal year 2024.

This estimate assumes that there will be a small increase in licensee population each fiscal year, generating a greater amount of revenue each year. As the bill would eliminate the current fee structure and replace it with a new method, the table above reflects the estimated net differences by fiscal year between the generated revenue under current law versus under the provisions of the bill to provide a more accurate representation of deposits to the General Revenue Dedicated Account.

Based on the analysis of the Office of Court Administration and the Department of Public Safety, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Relating to the escalation of a Class A misdemeanor to a felony for false statements to obtain a license with harmful intent, it is assumed that any impact on state correctional populations or on the demand for state correctional resources would not be significant.

Technology

Technology costs include desktop computer costs totaling \$5,500 in fiscal year 2024 associated with the new positions.

Local Government Impact

Relating to the escalation of a Class A misdemeanor to a felony for false statements to obtain a license with harmful intent, It is assumed that any fiscal impact to units of local government associated with enforcement, prosecution, supervision, or confinement would not be significant.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 503 Texas Medical Board

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