

Fiscal Note & Local Impact Statement

122nd General Assembly of Ohio

BILL: Am. Sub. H.B. 553 DATE: November 16, 1998

STATUS: As Passed by the Senate SPONSOR: Rep. Coughlin

LOCAL IMPACT STATEMENT REQUIRED: No — No local cost

CONTENTS: Prohibits the State Board of Optometry from considering the application from anyone who has failed any part of the licensing examination four times until the applicant has taken remedial classes and passed the examination and makes other changes, expands the investigatory and disciplinary powers of the Board.

State Fiscal Highlights

STATE FUND	FY 1998	FY 1999	FUTURE YEARS
Occupational Licensing and Regulatory Fund (GSF Fund 4K9)			
Revenues	- 0 -	Potential minimal gain	Potential minimal gain
Expenditures	- 0 -	Potential minimal increase	Potential minimal increase

- Potential minimal increase in revenues for the Optometry Board raised by fees accompanying each application for the licensing examination. The fee for the main exam and application is \$110. The fee for the treatment and management of ocular disease portion of the examination, required for the therapeutic pharmaceutical agent certificate, is \$35. It is estimated that fewer than 20 persons might be affected.
- The Optometry Board no longer issues the licensing examination. Since the 1980s, a national exam has been used by the Board to satisfy the requirements of section 4724.08 of the Revised Code.
- The bill increases the investigatory powers of the Optometry Board and thus involves a potential minimal increase in associated costs.
- The bill permits the Optometry Board to levee fines and thus involves a potential minimal gain in revenues.

Local Fiscal Highlights

- No direct fiscal effect on local governments.

Detailed Fiscal Analysis

State Effect

This bill has a potential revenue increase for the State Board of Optometry. Under Sections 4725.08 and 4725.091 of the Revised Code, the Optometry Board (OPT) is required to collect a fee for each application to take the licensing examination. Beginning in the 1980s, the Optometry Board has used the results from the national licensing exam in lieu of administering a

state licensing exam. Since a private firm coordinates the testing process, there are no costs associated with the exam for the board. Therefore, even if an individual were to take the exam more than the current limit of four times, the board would incur no additional expenses although they would collect a small amount of additional revenue. For the general exam application, the fee is \$110. In order to obtain a therapeutic pharmaceutical agents certificate, an applicant is required to submit a \$35 application and exam fee to the board.

Under existing conditions, the board must disregard any national examination scores submitted by an applicant if the person has already taken the test four times. Under the bill, the Optometry Board would be permitted to accept passing test scores even if an individual had already taken the test four times.

According to the Optometry Board, the number of people who are affected by the current statute is minimal. During the 1990s, there have been five optometrists who have failed the Therapeutic Management of Ocular Disease (TMOC) exam four times. Although these individuals are still practicing optometrists, they are not allowed to perform the additional services authorized following successful completion of the TMOC. Additionally, in recent years, the board has received the scores from approximately 15 potential applicants who have failed the test at least four times. In many cases, these individuals are simply sending in their scores to the Board without actually submitting an application. Therefore, additional revenue to the 4K9 will be minimal, as the number of persons affected is likely to be 20 or fewer.

Existing Section 4725.091

According to the Board, the wording of section 4725.091(C)(2) is incorrect. This section of the code, effective May 19, 1992, covers the issuance of therapeutic pharmaceutical agents certificates. In addition to the standard course work and exam, the therapeutic pharmaceutical certificate requires additional coursework and the passage of the Therapeutic Management of Ocular Disease exam, given by the national board. In the current section of the code, this portion of the exam is referred to as “part two of the optometry licensing examination administered by the board under section 4725.08 of the Revised Code.” In reality, the state board has never administered this exam.

Restrictions in Other States

According to information provided by the American Optometric Association, in addition to Ohio, eight other states have rules or statutes limiting the number of times an individual is permitted to retake the licensure examination. The following table details the various restrictions. In addition to Ohio, Kentucky and Mississippi have statutes limiting the number of times an individual may retake the exam. The other six states have rules outlining the restrictions.

STATE	RESTRICTION
IOWA	Additional education is required prior to an individual taking the exam for the 3 rd and subsequent times.
KENTUCKY	An individual may take the exam no more than three times in any five consecutive years.
MAINE	An individual is required to have 100 hours of continuing education prior to retaking the exam following three failures. Additionally, three failures require a wait of two years prior to retaking the exam.
MISSISSIPPI	Two failures require an individual to have continuing education before retaking the exam.
NEVADA	An individual may not take the exam more than three times.
NEW JERSEY	Two failures require an individual to have continuing education before retaking the exam.
NORTH CAROLINA	Three failures require one year of academic study prior to retaking the exam.
RHODE ISLAND	One semester of course work is required following two failures of the national exam. Failure of the state administered clinical exam three times requires board approved continuing education prior to retaking the exam.

Increase in Investigatory and Disciplinary Powers

Under current law, the Board has the authority to employ investigators to assist in enforcing the provisions of chapter 4725 of the Revised Code. This bill expands the investigatory powers of the Optometry Board. During an investigation, the board may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and production of evidence and testimony. Sheriffs or Sheriff's Deputies shall receive fees for serving a subpoena. Witnesses who appear in response to subpoena shall receive the fees and mileage provided for witnesses in civil cases in courts of common pleas. This may result in a minimal increase in expenditures for the Board.

The bill also permits the Board to impose monetary penalties. If the reason for the penalty involves a criminal offense that carries a fine under the ORC, the penalty shall not exceed the maximum fine that may be imposed for the criminal offense. In any other case, the penalty levied by the Board shall not exceed \$500. The amount of revenue that would be generated by the Board's ability to levee fines is likely to be minimal.

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