Fiscal Note & Local Impact Statement

122 nd General Assembly of Ohio

BILL: **Sub. H.B. 606 (LSC 122 1129-5)** DATE: **March 16, 1998**

STATUS: **In House Health, Retirement, & Aging** SPONSOR: **Rep. Schuring**

LOCAL IMPACT STATEMENT REQUIRED: **No — Minimal cost**

CONTENTS: **Make revisions regarding licensing and enforcement duties and disciplinary procedures used by the State Medical Board**

State Fiscal Highlights

STATE FUND	FY 1998*	FY 1999	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	Potential negligible gain	Potential negligible gain
Expenditures	- 0 -	- 0 -	- 0 -
Reparations Fund (Fund 402)			
Revenues	- 0 -	Potential negligible gain	Potential negligible gain
Expenditures	- 0 -	- 0 -	- 0 -
State Special Revenue Fund 5C6 (State Medical Board Operating Fund)			
Revenues	- 0 -	Gain of $300,000 to $500,000	Gain of $300,000 to $500,000
Expenditures	- 0 -	Minimal increase	Minimal increase

* LBO assumes any fiscal effects to take place beginning in FY 1999

- The State Medical Board will have fining authority for violations of continuing medical education requirement. The Board may impose a civil penalty of not more than $5,000.

- Mandatory training certificates for residents, interns, and clinical fellow will be required. The Board estimates issuing 3,000 to 4,800 certificates per year. The bill adds an application fee of $75 with the renewal fee remaining $35.

- Increases the penalty for practicing medicine, osteopathy, or podiatry without a license. Currently, a first offense is a first degree misdemeanor and subsequent offenses are fifth degree felonies. Under the bill, a first offense would be a fifth degree felony and subsequent offenses would be fourth degree felonies.

- The bill changes the renewal penalty for licenses suspended for non-renewal. Currently, an individual must pay the current fee, all delinquent fees, and a $25 penalty. This bill would require the individual to pay the current biennial registration fee and a penalty of $50 if the license has been suspended for two years or less. For more than two years, the penalty fee is $100. According to the Board, the loss in penalty fees would be negligible.

- Negligible locally collected court costs revenue may be generated for the state GRF and Reparations Fund, a.k.a., Victims of Crime Fund.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1998*	FY 1999	FUTURE YEARS
Counties and Municipalities			
Revenues	- 0 -	Potential negligible gain	Potential negligible gain
Expenditures	- 0 -	Potential negligible increase	Potential negligible increase

* LBO assumes any fiscal effects to take place beginning in FY 1999

- Counties and municipalities could receive a small amount of court cost and fine revenue. Expenditures for prosecutions, if any, should be insignificant.

- Appeals of adjudications by the State Medical Board are heard by the Franklin County Court of Common Pleas.

- Increases the penalty for practicing medicine, osteopathy, or podiatry without a license. Currently, a first offense is a first degree misdemeanor and subsequent offenses are fifth degree felonies. Under the bill, a first offense would be a fifth degree felony and subsequent offenses would be fourth degree felonies.

Detailed Fiscal Analysis

Overall, the changes to chapters 4730. and 4731. of the Revised Code ease many bureaucratic constraints facing the licensing aspects of the medical profession. Most of the modifications as a result of this bill should have little, if any, fiscal effect. The following, however, outlines those provisions having a potential impact.

Continuing Medical Education Requirements

One requirement for a practitioner to renew his or her license is the completion of the proper number of continuing medical education (CME) credit hours. This bill allows the State Medical Board (MED) to fine individuals who did not complete the requisite CME. Pursuant to an adjudication under Chapter 119. of the Revised Code, MED can levy a civil penalty of not more than $5,000.

According to a representative of the Medical Board, during the last biennium, there were 22 actions taken for violating the CME requirement. Although the Board may levy a fine of up to $5,000, it is unknown how much revenue might be collected through civil penalties. LBO estimates that during a biennium, MED could potentially collect upwards of $100,000.

Mandatory Training Certificates

Currently, an individual pursuing an internship, residency, or clinical fellowship in the state of Ohio receives a training certificate issued by the Medical Board. The fee for the training certificate, valid for one year only, is $35. This certificate can be renewed for $35 for up to five years.

This bill increases the initial application fee to $75. The renewal fee for the certificate remains $35. According to the Board, there are approximately 3,000 certificate holders per year. This figure is expected to increase to almost 5,000 based upon the number of available slots in teaching hospitals. This could raise additional revenue of $220,000 to $370,000 per year. This activity would produce minimal increase in Board costs due to the potential addition of criminal background checks and possible disciplinary activity.

License Suspensions for Non-Renewal

In sections 4730.12 and 4731.281, the penalty for renewal of a license that had been suspended due to non-renewal is changed. Under the existing system, a licensee would be required to pay the current renewal fee, a penalty of $25, plus all delinquent registration fees. For example, if a person's license had been suspended for 20 years, that individual would be required to pay the back fees for the 10 missed biennial renewals.

Under this bill, the applicant would still be required to pay the current biennial renewal fee. The penalty, however, no longer is tied to the specific length of the suspension. Instead, a license suspended for two years or less, the monetary penalty will be $50. If the license was suspended

for more than two years, the penalty shall be $200. The Medical Board estimates that it will lose a small amount of revenue as a result of this change in the law.

English Competency

Modifications to the English language competency requirements will produce minimal cost savings for the Medical Board. The bill requires an applicant to obtain a score of forty or higher on the test of spoken English conducted by the Educational Testing Service. Under existing law, an applicant scoring between 40 and 50 must appear before the Board to demonstrate English language competency. The changes in the bill will save Board-member time. According to MED, 5 or 6 people are tested every couple of months.

Practicing Medicine Without a License

Section 4731.99 of the bill modifies the penalty for violation of sections 4731.41, 4731.43, or 4731.60 of the Revised Code. These three sections prohibit the practice of medicine, osteopathy, or podiatry without a license issued by the State Medical Board. Under current law, a first offense is punishable by a first degree misdemeanor. Each subsequent offense is considered a fifth degree felony.

This bill makes a first offense a fifth degree felony. An individual would be guilty of a fourth degree felony for each subsequent offense.

Felonies: Sentencing & Penalties			
Offense Level	Basic Prison Term	Max. Post-Release Control	Maximum Fine
Felony - 1st Degree	3 to 10 Years	5 Years	$20,000
Felony - 2nd Degree	2 to 8 Years	4 Years	$15,000
Felony - 3rd Degree	1 to 5 Years	1-3 Years	$10,000
Felony - 4th Degree	6 to 18 Months	1 Year	$5,000
Felony - 5th Degree	6 to 12 Months	1 Year	$2,500

State GRF and Reparations Fund

When an individual is convicted of or pleads guilty to a felony offense, the court generally is required to collect an additional $11 in court costs and then pay it into the state's GRF. Although never referred to expressly in any of its enactments, the General Assembly intended that these moneys were to be used to assist public defender offices. Additionally, if an individual is convicted of or pleads guilty to a felony offense, the court generally is required to collect an additional $30 in court costs and then pay it into the Reparations Fund, a.k.a., Victims of Crime Fund. Assuming that there will be few additional criminal cases created as a result of the bill, then the amount of additional revenue generated for the GRF and the Reparations Fund will be extremely small.

Local Revenue and Expenditures

Additional court costs and fine revenue may be generated for counties and municipalities, but as there most likely will be few additional criminal cases created by the bill, the amount of revenue

to be generated should be extremely small. Court costs collected in most municipal courts generally must be paid into the treasury of the municipal corporation in which the municipal court is located. However, in the case of county-operated municipal courts, court costs generally must be paid into the county's treasury. Court costs collected in a county court must be paid into the county treasury. On the expenditure side, counties will bear the cost of prosecution in these cases.

Synopsis of Changes from Preceding Version

This synopsis compares the fiscal effects of the changes in this bill to the previous version (As Introduced).

The section dealing with HIV testing of Medical Board licensees is the main difference between the two versions of H.B. 606. In the substitute bill, the HIV testing is treated as a standard part of the physical examination given to determine ability to practice. In the original version of the bill, an HIV test is to be given in addition to the physical and mental examination. There is no fiscal effect of this change.

❑ *LBO staff: Jeffrey M. Rosa, Budget/Policy Analyst*

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