Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Am. H.B. 531 of the 130th G.A. **Date**: June 4, 2014

Status: As Reported by House Health and Aging **Sponsor**: Reps. Gonzales and DeVitis

Local Impact Statement Procedure Required: No

Contents: To authorize the State Medical Board to fine certain professionals it regulates for failing to comply with continuing education requirements without suspending the individual's license or certificate to practice, to authorize the Board to fine the professionals it regulates for violating law administered by the Board, and to impose additional terms and conditions for physician certificate restoration

State Fiscal Highlights

- The bill permits the State Medical Board to impose, pursuant to an adjudication under the Administrative Procedure Act, a civil penalty of a maximum $20,000 with certain exceptions when a professional it regulates violates the law administered by the Board. As a result, the Board could gain revenue from any fines collected. The amount of revenue collected would depend on the number of fines assessed by the Board and the amount of the fines assessed.
- The bill requires the State Medical Board to adopt guidelines regarding the amounts of civil penalties the bill permits the Medical Board to impose. In addition, the bill permits the Board to amend the guidelines after they have been initially adopted. The bill requires amounts received from payment of civil penalties imposed be used by the Board solely for investigation, enforcement, and compliance monitoring. There could be a minimal increase in costs to the State Medical Board to create the guidelines for civil penalties. There could be a minimal increase in costs to the Board if the Board elects to amend these guidelines at a later date.
- The bill permits the State Medical Board to suspend an individual's certificate to practice as a physician (including a podiatrist) or a physician assistant for failure to renew the certificate and comply with the renewal requirements, instead of requiring an automatic suspension. Therefore, there could be a reduction in the number of suspensions and potentially reduce the number of disciplinary hearings.
- The bill increases this monetary penalty for reinstatement of a physician certificate (suspended or inactive less than two years) from $50 to $100. Thus, there would be a gain in revenue to the Board. The amount of revenue would be determined by the number of applications for reinstatement of certificates the Board receives.

- The bill increases the monetary penalty for restoration of a physician certificate (suspended or inactive for more than two years) from $100 to $200. Thus, there would be a gain in revenue to the Board. The amount of revenue would be determined by the number of applications for restoration of certificates the Board receives.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

Civil penalties

The bill permits the State Medical Board to impose, pursuant to an adjudication under the Administrative Procedure Act, a civil penalty of a maximum $20,000 with certain exceptions when a professional it regulates (i.e., physicians, podiatrists, physician assistants, massage therapists, cosmetic therapists, naprapaths, mechanotherapists, anesthesiology assistants, oriental medicine practitioners, acupuncturists, radiological assistants, and genetic counselors) violates the law administered by the Board. The bill specifies that the fine may be in addition to any other penalty authorized by current law. The bill exempts two offenses which have a fine under current law: failure to complete mandatory continuing education hours required by the Board and for a physician making a referral for a patient to a person if the physician or a member of the physician's immediate family has certain financial relationships with this person. The maximum fine for these two offenses is $5,000.

The bill requires the State Medical Board to adopt guidelines regarding the amounts of civil penalties the bill permits the Medical Board to impose. In addition, the bill permits the Board to amend the guidelines after they have been initially adopted. The bill requires amounts received from payment of civil penalties imposed be used by the Board solely for investigation, enforcement, and compliance monitoring.

The Board could gain revenue from fine revenue for any fines collected. The amount of revenue collected would depend on the number of fines assessed by the Board and the amount of the fines assessed. There could be a minimal increase in costs to the State Medical Board to create the guidelines for civil penalties. There could be a minimal increase in costs to the Board if the Board elects to amend these guidelines at a later date. In FY 2013, the Board issued a total of 263 disciplinary actions. The table below shows the types of disciplinary actions the Board took in FY 2013.

Disciplinary Actions Taken by the State Medical Board in FY 2013

Type of action imposed	Number of actions
Citation	81
Suspension	74
Revocation of license	47
Probation	39
Disciplinary licensure denial or withdrawal	7
License surrender/retirement	6
Practice limitation	3
Reprimand	3
Violation occurred but no penalty imposed	3
Total	**263**

Reinstatement and restoration of licenses

Current law requires the State Medical Board to automatically suspend the certificate of a physician (including a podiatrist) or a physician assistant who fails to renew or register their physician certificate. If the license has been suspended or inactive for less than two years, a certificate must be reinstated upon an applicant's submission of a renewal application, the biennial renewal fee, and the applicable monetary penalty. The bill increases the monetary penalty required for reinstatement of a physician certificate from $50 to $100. (The fees for a physician assistant remain the same.) As a result of the increase in fee for the physician certificate reinstatement, there would be a gain in revenue to the Board. The amount of revenue would be determined by the number of applications for reinstatement of certificates the Board receives.

If the certificate has been suspended or inactive for two years or more, current law permits the Board to restore a certificate. The bill increases the monetary penalty for restoration of a physician certificate from $100 to $200. (The fees for a physician assistant remain the same.) As a result of the increase in fee for the physician certificate restoration, there would be a gain in revenue to the Board. The amount of revenue would be determined by the number of applications for restoration of certificates the Board receives.

The bill permits the Board to require that a practitioner's skills be assessed before restoring or issuing certain certificates to practice. Additionally, the bill permits the Board to require that certain applicants pass an examination or obtain additional training before issuing a certificate to practice a limited branch of medicine. The bill also extends the Board's ability to impose these terms and conditions, as well as the terms and conditions for restoration of a certificate in current law, to cosmetic and massage therapists, naprapaths, and mechanotherapists. The examinations are not administered by the Board. However, there could be a negligible increase in administrative costs to the Board to process these additional examination results.

Suspension of certificate to practice for failure to renew or register a certificate

The bill permits the State Medical Board to suspend an individual's certificate to practice as a physician assistant for failure to renew the certificate and comply with the renewal requirements, instead of requiring an automatic suspension. Therefore, there could be a reduction in the number of suspensions and potentially reduce the number of disciplinary hearings.

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