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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Office

H.B. 151
133rd General Assembly

Fiscal Note & Local Impact Statement

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Version: As Reported by Senate Health, Human Services & Medicaid

Primary Sponsor: Rep. Carfagna

Local Impact Statement Procedure Required: No

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Highlights

- The bill requires the State Chiropractic Board to deposit \$25 of each biennial chiropractic physician license renewal fee in the Chiropractic Loan Repayment Fund, used by the Ohio Department of Health (ODH), which is created by the bill. As a result, approximately \$62,500 is expected to be deposited each even-numbered year into this fund. However, the Board would realize a corresponding loss of renewal fee revenue deposited into the Occupational Licensing and Regulatory Fund (Fund 4K90) unless fees were adjusted in rule to account for this.
- The Board may experience an increase in costs to create a registration process for animal chiropractic practitioners and to investigate any related violations of the bill's prohibitions. If any fees were charged for this registration, these could be used to offset some costs.
- The Board and the State Veterinary Medical Licensing Board may realize a minimal increase in costs related to rule promulgation.
- ODH will experience an increase in costs to administer the Chiropractic Loan Repayment Program, to designate chiropractic health resource shortage areas, provide staff to the Chiropractic Loan Repayment Advisory Board, and to adopt rules.
- The bill establishes temporary qualified civil immunity for health care isolation centers that are providing services to patients during a disaster or emergency. This may create a savings for local trial courts by reducing the time that otherwise may have been expended to adjudicate related civil actions. In addition, this could decrease administrative costs for the Department of Health, which monitors these entities, if the provision results in fewer investigations, etc.

Detailed Analysis

The bill declares an emergency; thus, any of the below mentioned fiscal impacts may be realized immediately upon enactment.

Chiropractic Loan Repayment Program

The bill creates the Chiropractic Loan Repayment Program within the Ohio Department of Health (ODH). Under the program, ODH may repay all or part of an educational loan taken by a chiropractor in exchange for the chiropractor providing services in chiropractic health resource shortage areas, which the Director of ODH is required to designate. ODH is required to administer the program in cooperation with the Chiropractic Loan Repayment Advisory Board, which is created by the bill. ODH is required to provide staff to the Advisory Board as requested and adopt rules as necessary to implement and administer the program.

The bill outlines specifications for eligibility, repayment amounts, and applying for the program. Under the bill, no repayment may exceed \$10,000 in any year and the total repayment cannot exceed \$30,000. If a repayment amount results in an increase in a participating chiropractor's tax liability, the chiropractor may request reimbursement for the increase. The bill specifies that, if a chiropractor fails to complete services during the first two years of the service obligation, the chiropractor must pay ODH one and a half times the total repayment amount. For a failure to complete service after the first two years of the service obligation, the chiropractor must pay ODH one and a half times any amount that still remains to be repaid by ODH. These damages must be paid to the credit of the Chiropractic Loan Repayment Fund.

The bill requires the State Chiropractic Board to deposit \$25 of each biennial chiropractic physician renewal fee and any damages from default into the Chiropractic Loan Repayment Fund, which is created by the bill. The bill also establishes the Chiropractic Health Resource Shortage Area Fund, in which all gifts accepted for the program must be deposited.

Currently, each chiropractor must pay a fee of \$500 to renew his or her license before the renewal deadline of March 31 of each even-numbered year. This fee is established in the Ohio Administrative Code. These fee revenues are currently deposited into the Occupational Licensing and Regulatory Fund (Fund 4K90), which is used by the State Chiropractic Board for its operations. In FY 2018, there were approximately 2,500 active chiropractic licenses in Ohio. The bill requires \$25 of each renewal fee to be deposited into the Chiropractic Loan Repayment Fund. As such, approximately \$62,500 would be deposited each even-numbered year into this fund rather than into Fund 4K90. As a result, revenues currently retained by the State Chiropractic Board will be decreased. However, the Board may increase the license renewal fee in rule.

ODH may experience an increase in costs to administer the Chiropractic Loan Repayment Program, to designate chiropractic health resource shortage areas, provide staff to the Chiropractic Loan Repayment Advisory Board, and to adopt rules.

Animal chiropractic

The bill generally prohibits chiropractors who are not animal chiropractic practitioners from (1) practicing animal chiropractic and (2) representing themselves to be animal chiropractic practitioners. The bill requires animal chiropractic practitioners to register with the State Chiropractic Board. The bill also requires the Board to maintain a list of those individuals registered and make the list available to the public.

The bill requires animal chiropractic practitioners to require an application for care form to be completed by the animal's owner before providing care to the animal. The form is to disclose certain information and obtain authorization for the provision of animal chiropractic.

The bill specifies that if the Board conducts an investigation or takes action against a chiropractor concerning an allegation of harm to an animal from the practice of animal chiropractic, the Board is required to retain as an expert witness a licensed veterinarian. The bill also specifies that a chiropractor may be disciplined related to the practice of animal chiropractic in a manner similar to existing law related to the practice of chiropractic.

The bill permits the Board to adopt rules regarding animal chiropractic, but requires consultation with the State Veterinary Medical Licensing Board regarding any rules related to standards of medicine or care for an animal.

The Board may incur costs to create a registration process for animal chiropractic practitioners and to investigate any violations of the bill's prohibitions. The Board may also incur costs to retain a licensed veterinarian as an expert witness in any investigations or actions. It is possible that the Board may charge a registration fee for these practitioners. If a fee is charged, any revenues collected could be used to offset some costs. The State Chiropractic Board and the State Veterinary Medical Licensing Board may experience a minimal increase in administrative costs related to rule promulgation.

Acupuncture certificates and annual meetings

The bill extends the length of time that an acupuncture certificate is valid from one year to two and requires the Board to establish a schedule for the biennial expiration of certificates. The bill authorizes the Board to take any action it considers necessary for the purpose of converting the certificates to a biennial schedule. The bill also eliminates the requirement that the Board hold an annual meeting in September of each year and requires elections for board president to be held at the first board meeting held in each odd-numbered year, rather than at every annual September meeting.

According to the State Chiropractic Board, the change to the acupuncture certificates is codifying current practice. Thus, there should be no impact associated with these provisions.

Soliciting by health care practitioners after accident or crime

The bill amends current law that pertains to the ability of health care practitioners and persons acting on their behalf to contact a party to a car accident, crime victim, or witness to a car accident or crime for purposes of obtaining professional employment. The bill allows health care practitioners and persons acting on their behalf to contact a party to a car accident for purposes of obtaining professional employment 24 hours after the accident using certain forms of communication that otherwise would have been prohibited until 30 days after the accident. The frequency at which communication may be initiated is set by the bill and varies depending on the communication type (telephone, email, text, letter). The existing limitations on contacting a crime victim, or a witness to a car accident or crime, are generally unchanged by the bill.

The bill eliminates the Attorney General's authority to enforce limitations concerning the contact of all such persons, and instead provides that authority to licensing agencies. As such, licensing agencies will be responsible for hearing violations of those to whom they have

issued a professional license. This new responsibility is in addition to the existing requirement to suspend the license of a person with three violations. The shift of enforcement responsibilities may potentially result in a loss of GRF fine revenue, as the Attorney General is currently required to impose a \$5,000 fine for each violation, and a \$25,000 fine for each subsequent violation (this authority was first granted by H.B. 166 of the 133rd General Assembly). However, as of this writing, no fine revenue has been collected by the Attorney General as no enforcement actions have been taken to date. The shift in enforcement activities and related expenses for affected licensing boards will likely be minimal as many were already accustomed to fielding such complaints prior to when the Attorney General was given enforcement authority by H.B. 166.

Health care isolation centers immunity

The bill establishes temporary qualified civil immunity for health care isolation centers that are providing services to patients during a disaster or emergency. The immunity is effective through September 30, 2021. This could create an expenditure savings effect for local trial courts by reducing the time and effort that otherwise may have been expended to adjudicate civil actions resulting from a disaster or emergency. It may also decrease investigation and disciplinary costs for the Department of Health since these entities operate under the guidance and monitoring of the Department.

Temporary qualified civil immunity and government orders

Regarding the recently enacted temporary qualified civil immunity relating to the exposure to or transmission or contraction of MERS-CoV, SARS-CoV, or SARS-CoV-2, the bill clarifies that the language providing that government orders, recommendations, or guidance do not create a duty of care or substantive legal right in a legal cause of action applies only to that immunity. This provision has no readily apparent direct fiscal effect on the state or political subdivisions.

Emergency medical services

With regard to the scope of practice of a first responder, emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic, the bill: (1) expands, until July 1, 2021, the authority to perform emergency medical services in any setting, including in any area of a hospital, (2) requires those services be performed under the direction and supervision of certain specified individuals, and (3) provides an immunity against damages in a civil action, unless the services are administered in a manner that constitutes willful or wanton misconduct.

The provisions described in (1) and (2) in the immediately preceding paragraph have no readily apparent direct fiscal effect on the state or political subdivisions. The immunity provision, however, may affect local trial courts, most likely common pleas courts, by preventing certain civil actions from being filed, or by expediting their resolution subsequent to the finding of the court that these individuals in their expanded scope are immune from being sued for damages.