



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 470 of the 131st G.A. (LSC 131 1954-1) **Date:** May 10, 2016
Status: In House Health and Aging **Sponsor:** Rep. Schuring

Local Impact Statement Procedure Required: No

Contents: Requires the licensure of palliative care facilities

State Fiscal Highlights

- The Ohio Department of Health (ODH) is required to establish a licensure program for palliative care facilities. ODH will likely have initial start-up costs related to the program, as well as ongoing regulatory costs. However, revenues generated from license and inspection fees could partially offset ongoing program costs.
- The Attorney General's Office may realize a minimal increase in administrative costs and a subsequent minimal gain in revenue for required background checks.

Local Fiscal Highlights

- County sheriff's offices could realize a minimal increase in administrative costs and a subsequent minimal gain in revenue for required background checks.
- A court of common pleas could experience an increase in court costs if ODH petitions the court for an order enjoining a facility from conducting unlicensed activities. Any increase in costs should be minimal since the number of violators is expected to be small. Additionally, the court would likely require violators to pay for court costs and/or fines.

Detailed Fiscal Analysis

Palliative care facility regulation

The bill requires the Ohio Department of Health (ODH) to regulate palliative care facilities through a licensing process that is similar to ODH's licensure of hospice care programs and pediatric respite care programs. The bill provides for the regulation of palliative care facilities by creating licensing procedures, requiring inspections, authorizing disciplinary actions, and requiring the Director of Health to adopt necessary rules. The bill requires every person or public agency that proposes to operate a palliative care facility to apply to ODH for a license by submitting the form prescribed

by ODH and the license fee established in rules. The fee cannot exceed \$600; however, with Controlling Board approval, the Director of Health may establish a fee that is up to 50% higher. A license is valid for three years and may be renewed in the same manner as applying for the initial license. The renewal fee restrictions are the same. The bill also requires ODH to conduct inspections as necessary, including before licensure and at least every three years thereafter, to determine whether palliative care facilities and services meet the requirements of the bill and the rules to be adopted under it. The Director of Health must establish an inspection fee in rules, which cannot exceed \$1,750. However, with Controlling Board approval, the Director may establish a fee that is up to 50% higher. ODH will have initial start-up costs related to the program, as well as ongoing regulatory costs. However, revenues generated from license and inspection fees could partially offset program costs. The costs associated with regulating the program, as well as the amount of revenue generated, will depend on the number of facilities seeking licensure. LSC does not have an estimate regarding this number.

In addition to the application form and license and inspection fees, the Director of Health must adopt other rules related to the licensure of palliative care facilities and criminal background check requirements for applicants for employment with palliative care facilities. ODH may experience a minimal increase in administrative costs to adopt rules. The Attorney General's Office may realize a minimal increase in administrative costs and a subsequent minimal gain in revenue for required background checks. Background checks may also be obtained by county sheriff's offices.

The bill prohibits, with certain exceptions, a person or public agency from doing any of the following without a license: (1) holding itself out as operating a palliative care facility, or (2) operating a palliative care facility. The bill requires ODH to petition the court of common pleas of the county in which the prohibited activity is taking place for an order enjoining that person or public agency from conducting those activities without a license. Any person or public agency may request ODH to petition the court, and ODH must do so if it determines that a violation occurred. The bill specifies that the court has jurisdiction to grant injunctive relief upon a showing that the person or public agency named in the petition is conducting those activities without a license. As a result, it is possible that county courts of common pleas could experience an increase in court costs. Any increase in costs should be minimal since the number of violators is expected to be small. Additionally, the court would likely require violators to pay for court costs and/or fines.

Palliative care by inpatient hospice facilities and units

The bill also permits a licensed hospice care program that operates an inpatient facility or unit to provide palliative care to any patient, regardless of whether the patient has or has not chosen to receive hospice care instead of treatment services. This provision would likely just broaden the settings in which palliative care could be provided.

Synopsis of Fiscal Effect Changes

The substitute bill, LSC 131 1954-1, outlines certain requirements for ODH to adopt in rules for palliative care facilities, including a provision which specifies that facilities must be inspected as a condition of licensure and at least every three years thereafter. The substitute bill specifies that ODH may inspect as necessary, in addition to the previously mentioned inspection requirements. The As Introduced version of the bill specified that ODH was to inspect facilities as necessary. ODH may incur additional costs related to inspection as a result. However, some of these costs may be offset by inspection fees established by the bill.

The substitute bill, LSC 131 1954-1, exempts all home health agencies that provide palliative care from obtaining a palliative care license. The As Introduced version exempted a home health agency if the agency provides services under a contract with a palliative care facility. This provision may reduce the number of facilities requiring licenses as compared to the As Introduced version of the bill. This would reduce any revenues to ODH related to palliative care licensure, but also reduce any administrative or inspection costs.

The substitute bill, LSC 131 1954-1, permits a licensed hospice care program that operates an inpatient facility or unit to provide palliative care to any patient, regardless of whether the patient has or has not chosen to receive hospice care instead of treatment services. This provision would likely just broaden the settings in which palliative care could be provided.