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S.B. 40
135th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the House

Primary Sponsor: Sen. Roegner

Local Impact Statement Procedure Required: No

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Highlights

- The Ohio State Dental Board will experience costs to participate in the Dentist and Dental Hygienist Compact. These include costs to process Compact privileges, to investigate any complaints about privilege holders, and to provide required information. However, participating states can charge a fee to issue Compact privileges. The total costs, as well as the amount of revenues received, will depend on the number of dentists and dental hygienists seeking a Compact privilege.
- The Board may also experience minimal administrative costs to issue a report assessing the impact of Ohio's participation in the Compact after five years.
- The Department of Insurance may realize minimal administrative costs related to regulating health care contracts between a dental care provider and a contracting entity (such entities generally are health insurers). Any increase in such costs would be paid from the Department's Operating Fund (Fund 5540). The Superintendent of Insurance may also impose fines and penalties for violations related to such contracts. Any fines and penalties collected would also be deposited into Fund 5540.
- The Board is allowed to impose disciplinary actions on a dentist who engages in violations of the bill's price and reimbursement disclosure requirements, which may minimally increase the Board's administrative costs.
- Any costs to the Board would be paid from the Board's appropriation item 880609, Operating Expenses (Fund 4K90).
- No direct fiscal effect on political subdivisions.

Detailed Analysis

Dentist and Dental Hygienist Compact

The bill enters Ohio as a party to the Dentist and Dental Hygienist Compact. This will require Ohio to extend the privilege to practice to dentists and dental hygienists licensed in other Compact states. The Compact provides that licensees practicing dentistry or dental hygiene in a remote state are subject to the remote state's regulatory authority, meaning a remote state may temporarily remove a licensee's compact privilege, impose fines, or take other necessary actions. As a result, the Board could realize costs to process and regulate these Compact privileges. The Board may receive complaints regarding out-of-state practitioners with a privilege, which may result in costs for investigations and disciplinary action. If there are any criminal actions taken, there could be court costs. Additionally, the Board will be required to submit specified information to the Compact Commission on all dentists and dental hygienists to whom the Compact is applicable. There will be administrative costs to submit this information, to promulgate any rules, and possibly to update information technology or the Board's website. However, participating states may impose Compact privilege fees, which may help offset some costs. Costs, and the amount of revenue received, will depend on the number of dentists and dental hygienists seeking privileges. Under the Dentist and Dental Hygienist Compact, this fee may be waived for active military members and their spouses. Additionally, fees imposed by the Compact Commission are waived for active military members and their spouses.

The Compact Commission is permitted to impose annual assessments on participating states. Additionally, the Board will be required to select one delegate to serve on the Compact Commission. These provisions could also result in costs to the Ohio State Dental Board.

The bill could result in other indirect impacts to the state and political subdivisions. Dentists and dental hygienists that practice in Ohio with a privilege could provide additional services to Ohioans and provide increased access to services. If this occurs, there could be additional reimbursements from state and local programs that reimburse for these services. However, if the utilization of services led to an avoidance of more expensive treatments, there could be a reduction in costs to state or local programs or health plans.

The bill's effective date is January 1, 2025. However, the Compact is effective when seven states enact it into law.

Compact report

The bill requires the State Dental Board to issue a report assessing the impact of Ohio's participation in the Compact. The report must be issued five years after entering the Compact. The bill requires the report to include the number of dentists and dental hygienists practicing in Ohio under the Compact privilege and address any discernible impact on dental practice in Ohio resulting from the Compact. The bill requires the Board to make the report available on its website and also to submit copies to the Speaker of the House of Representatives, Senate President, and chairpersons of the standing committees primarily responsible for considering health issues. The Board may experience a minimal increase in administrative costs to complete the report.

Health care contracts

The bill imposes (1) certain disclosure requirements on health insurers related to coverage of dental care services, and (2) certain restrictions on health care contracts between a dental care provider¹ and a contracting entity. As an example of the latter, the bill prohibits such contracts from requiring that a dental care provider accept as payment an amount set by the contracting entity for noncovered dental care services provided to an enrollee.²

The bill also specifies requirements on dental care providers related to dental care services that are not covered by the patient's insurance. Under the bill, a dental care provider who chooses not to accept as payment an amount set by a contracting entity for noncovered dental care services must: (1) provide pricing and reimbursement information on noncovered dental services to an enrollee, and (2) post a notice specified under the bill in a conspicuous place.

The health insurers affected by the bill include health insuring corporations, sickness and accident insurers, multiple employer welfare arrangements, and public employee benefit plans that cover dental care services. A pattern of continuous or repeated violations of the bill's restrictions on contract terms is considered an unfair and deceptive act or practice in the business of insurance, along with other practices classified as such under existing law.

Fiscal effect

The bill may increase the Department of Insurance's administrative costs for regulating health insurers. Currently, the Superintendent of Insurance is allowed to conduct a market investigation related to regulations and enforcement of health care contracts, and the Superintendent is allowed to assess the costs of examination against the person examined. If there is any increase in such costs, and any offsetting revenue, they are likely to be minimal. Any general administrative costs would be paid from the Department of Insurance Operating Fund (Fund 5540). Any increase in examination costs, and any reimbursement related to assessments for examination costs, would be paid from (or deposited in) the Superintendent's Examination Fund (Fund 5550).

The Superintendent may also impose fines and penalties for committing unfair or deceptive acts in the business of insurance, specified under existing law (section 3901.22 of the Revised Code, not in the bill). Such penalties may include an assessment for half the Department's costs of any investigation and hearing related to an unfair or deceptive act, up to \$100,000, or a penalty of up to \$3,500 per violation but no more than \$35,000 in any six-month period. Any fines and penalties collected for such violations would be deposited to the credit of Fund 5540.

¹ "Dental care provider" means a dentist licensed by the State Dental Board. "Dental care provider" does not include a dental hygienist.

² "Covered dental services" means dental care services for which reimbursement is available under an enrollee's health care contract, or for which a reimbursement would be available but for the application of contractual limitations, such as a deductible, copayment, coinsurance, waiting period, annual or lifetime maximum, frequency limitation, alternative benefit payment, or any other limitation. The bill also prohibits such contracts from requiring that a dental care provider contract with a plan offering supplemental or specialty health care services as a condition of contracting with a plan offering basic health care services.

The bill would have no direct fiscal impact on the state and local governments' health benefit plans.

State Dental Board

The bill specifies that a dental care provider who is an applicant for or holder of a certificate or license issued by the State Dental Board and engages in a pattern of continuous or repeated violations of the bill's price and reimbursement disclosure requirements is subject to disciplinary action by the State Dental Board.

Fiscal effect

The bill may minimally increase administrative costs for the State Dental Board. Any such costs would be paid from the Board's appropriation item 880609, Operating Expenses (Fund 4K90).