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Bill Analysis
Legislative Service Commission

H.B. 164

127th General Assembly
(As Introduced)

Reps. R. McGregor, J. McGregor, Huffman, Evans, Skindell, Seitz, Dodd, Widener, Flowers, J. Stewart, Gibbs, Stebelton, D. Stewart, Bacon, Daniels, Miller, Foley, Wachtmann, Chandler, Peterson

BILL SUMMARY

- Requires the Department of Health to enter into an agreement with the state's primary care association to promote the establishment of new federally qualified health centers (FQHCs) and FQHC look-alikes.
- Requires the Department and the state's primary care association to assist local communities and community health centers by providing grants and grant writing assistance to establish health centers.
- Extends participation in the Medical Liability Insurance Reimbursement Program to FQCH look-alikes and eliminates the \$20,000 limitation on how much the Department may reimburse a free clinic or FQHC look-alike for medical liability insurance premiums.
- Requires the Department to establish a pilot program to place two FQHCs within or adjacent to hospital emergency departments.
- Makes appropriations.
- Specifies that all provisions of the bill (not only the section containing appropriations) are not subject to the referendum and go into immediate effect when the bill is enacted.

CONTENT AND OPERATION

Background--FQHCs and FQHC look-alikes

According to the Centers for Medicare & Medicaid Services (CMS) in the U.S. Department of Health and Human Services, federally qualified health centers

(FQHCs) are safety net providers of healthcare. They include community health centers, public housing centers, outpatient health centers funded by the Indian Health Service, and programs serving migrants and the homeless. An entity may qualify as an FQHC if it (1) receives a grant under Section 330 of the federal Public Health Services (PHS) Act,¹ (2) receives funding from a PHS Act grant described in (1), above, under a contract with the recipient of such a grant and meets the requirements to receive a grant under Section 330 of the PHS Act, or (3) is an outpatient health program or facility operated by a tribe or tribal organization under the federal Indian Self-Determination Act or by an urban Indian organization receiving funds under Title V of the Indian Health Care Improvement Act as of October 1, 1991.²

An entity is a "FQHC look-alike" if the U.S. Secretary of Health and Human Services has determined that the entity meets the requirements for receiving a PHS Act grant but does not actually receive a grant. An FQHC look-alike is eligible, however, for enhanced Medicaid and Medicare reimbursement, participation in the 340(b) Federal Drug Pricing Program,³ and automatic designation as a Health Professional Shortage Area. Applicants for FQHC look-alike designation must be fully operational at the application date and (1) be a public or private nonprofit entity, (2) serve, in whole or in part, a designated "Medically Underserved Area" or "Medically Underserved Population,"⁴ (3) meet

¹ Section 330 of the Public Health Service Act defines federal grant funding opportunities for organizations to provide care to underserved populations. Rural Assistance Center. *FQHC Frequently Asked Questions* (last visited May 2, 2007), available at <http://www.raconline.org/info_guides/clinics/fqhcfqa.php#whatis>.

² Centers for Medicare & Medicaid Services. *Fact Sheet: Federally Qualified Health Center* (last visited May 2, 2007), available at <<http://www.cms.hhs.gov/MLNProducts/downloads/2006fqhc.pdf>>.

³ The 340B Drug Pricing Program resulted from enactment of Public Law 102-585 (the "Veterans Health Care Act of 1992"), which is codified as Section 340B of the Public Health Service Act. Section 340B limits the cost of covered outpatient drugs to certain federal grantees, FQHC look-alikes, and qualified disproportionate share hospitals. Significant savings on pharmaceuticals may be achieved by entities that participate in this program. U.S. Department of Health and Human Services, Health Resources and Services Administration. *Pharmacy Affairs and 340B Drug Pricing Program* (last visited May 2, 2007), available at <<http://www.hrsa.gov/opa/introduction.htm>>.

⁴ Medically Underserved Areas (MUAs) and Medically Underserved Populations (MUPs) have shortages of primary medical care, dental, or mental health providers and may be geographic (a county or service area) or demographic (*e.g.*, have a high concentration of low income, Medicaid-eligible populations or have cultural or linguistic access barriers to primary medical care services). They are each assigned an Index of

the statutory, regulatory, and policy requirements for grantees supported under Section 330 of the Public Health Service Act, and (4) comply with the policy implementation documents for the Balanced Budget Act of 1997 amendment that added the requirement that an FQHC Look-Alike entity may not be owned, controlled, or operated by another entity.⁵

Promotion of new FOHCs

(R.C. 3701.047)

The bill requires the Department of Health to enter into an agreement with the state's primary care association to promote the establishment of new FQHCs and FQHC look-alikes. At present, Ohio's primary care association is the Ohio Association of Community Health Centers.⁶

Grant and grantwriting assistance--"FOHC Incubator Program"

(R.C. 3701.047; Section 4)

The bill requires the Department of Health and the state's primary care association to assist local communities and community health centers by providing grants and grant writing assistance to establish "health centers" as this term is defined in Section 330 of the Public Health Services Act.⁷ The Department and

Medical Underservice (IMU) score, which is used to determine the eligibility of an area or population for MUA or MUP status. U.S. Department of Health and Human Services, Health Resources and Services Administration. *Medically Underserved Areas/Medically Underserved Populations (MUA/MUP)* (last visited May 3, 2007), available at <<http://muafind.hrsa.gov/>>.

⁵ U.S. Department of Health and Human Services, Health Resources and Services Administration, Bureau of Primary Health Care. *FQHC Look-Alike Program* (last visited May 1, 2007), available at <<http://www.bphc.hrsa.gov/chc/lookalikes.htm>>.

⁶ U.S. Department of Health and Human Services, Health Resources and Services Administration, Bureau of Primary Health Care. *Primary Care Association Web Sites* (last visited May 2, 2007), available at <<http://bphc.hrsa.gov/osnp/PCADirectory.htm>>.

⁷ Section 330 of the Public Health Services Act (codified in 42 U.S.C. 254b) defines a "health center" as, in general, an entity that serves a population that is medically underserved, or a special medically underserved population comprised of migratory and seasonal agricultural workers, the homeless, and residents of public housing, by providing, either through the staff and supporting resources of the center or through contracts or cooperative arrangements (1) required primary health services, and (2) as may be appropriate for particular centers, additional health services necessary for the

association must engage in this assistance regardless of whether a particular health center applies for a Section 330 grant.

Medical Liability Insurance Reimbursement Program

(R.C. 2305.2341; Section 4)

The main appropriations bill for the 2006-2007 biennium (Am. Sub. H.B. 66) created the Medical Liability Insurance Reimbursement Program. Under the Program, the Department of Health must reimburse participating free clinics⁸ up to 80% of the premiums the clinics pay for medical liability insurance coverage for clinic staff and volunteer health care professionals and health care workers, up to a maximum of \$20,000. The coverage must be limited to claims that arise out of the diagnosis, treatment, and care of patients of free clinics. To participate in the Program, a free clinic must provide certain information to the Department of Health at the time of registration. Existing law provides that appropriations to the Department may be made from the General Revenue Fund to support this Program.

The bill extends participation in the Medical Liability Insurance Reimbursement Program to FQCH look-alikes, including the centers' staff and volunteer health care professionals and health care workers. Under the bill, participating FQHC look-alikes are subject to the requirements applicable to participating free clinics.

The bill eliminates the \$20,000 limitation in current law on how much the Department may reimburse a free clinic or FQHC look-alike for premiums the clinic or center pays for medical liability insurance.

Pilot program--FQHCs in or adjacent to hospital emergency departments

(Sections 3 and 4)

The bill requires the Department of Health to establish a pilot program to place two FQHCs within or adjacent to hospital emergency departments. One

adequate support of the primary health services, for all residents of the area served by the center.

⁸ A free clinic is a nonprofit organization exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, or a program component of a nonprofit organization, whose primary mission is to provide health care services for free or for a minimal administrative fee to individuals with limited resources (R.C. 2305.2341(D)).

health center must be in or adjacent to a hospital located in an urban area; the other must be located in or adjacent to a hospital located in a rural area (see **COMMENT**, below).

The bill also requires each hospital and health center to prepare and submit a report to the Governor and General Assembly, not later than one year after the health centers become operational, regarding the number of patients that received care at the health centers for nonemergency conditions rather than receiving care at the emergency department. If the Department is unable to establish the pilot program not later than one year after the bill's effective date, the bill requires the Department to submit a report to the Governor and the General Assembly indicating the Department's progress.

Immediate effective date

(Section 5)

Under R.C. 1.471, a codified or uncodified section of an act that contains an appropriation for current expenses is not subject to the referendum and goes into immediate effect if the section is an appropriation for current expenses. In accordance with this provision, Section 4 of the bill goes into immediate effect on its enactment by the General Assembly because it contains appropriations for current expenses.

The bill specifies that *all* of the sections and items of law in the bill (not only Section 4) are not subject to the referendum and go into immediate effect when the bill is enacted.

COMMENT

The bill does not define "urban area" or "rural area" for purposes of the requirement in Section 3 that the Department of Health establish a pilot program to place two FQHCs in hospital emergency departments. The bill also does not establish a deadline by which the Department must establish the pilot program.

HISTORY

ACTION	DATE
Introduced	04-18-07

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