

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **Sub. H.B. 398 (LSC 127 1629-2)**

DATE: **April 22, 2008**

STATUS: **In House Health**

SPONSOR: **Rep. Bacon**

LOCAL IMPACT STATEMENT REQUIRED: **No — Minimal cost**

CONTENTS: **To enact sections regarding the certification of radiologist assistants**

State Fiscal Highlights

STATE FUND	FY 2009	FY 2010	FUTURE YEARS
General Revenue Fund (GRF)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential minimal increase for incarceration costs	Potential minimal increase for incarceration costs	Potential minimal increase for incarceration costs
Victims of Crime/Reparations Fund (Fund 402)			
Revenues	Potential negligible gain	Potential negligible gain	Potential negligible gain
Expenditures	- 0 -	- 0 -	- 0 -
Operating Expenses (Fund 5C6)			
Revenues	Potential gain dependent upon the number of radiologist assistants applying for certification	Potential gain dependent upon the number of radiologist assistants applying for certification	Potential gain dependent upon the number of radiologist assistants applying for certification
Expenditures	Potential increase for rule promulgation and other start-up costs, as well as administration, oversight, and enforcement of radiologist assistant program	Potential increase for administration, oversight, and enforcement of radiologist assistant program	Potential increase for administration, oversight, and enforcement of radiologist assistant program
General Reimbursement Fund (Fund 106)			
Revenues	Potential gain for background checks for radiologist assistants applying for certification	Potential gain for background checks for radiologist assistants applying for certification	Potential gain for background checks for radiologist assistants applying for certification
Expenditures	Potential increase relating to background checks for radiologist assistants applying for certification; Potential minimal increase for adjudications for mental competency	Potential increase relating to background checks for radiologist assistants applying for certification; Potential minimal increase for adjudications for mental competency	Potential increase relating to background checks for radiologist assistants applying for certification; Potential minimal increase for adjudications for mental competency

Note: The state fiscal year is July 1 through June 30. For example, FY 2007 is July 1, 2006 – June 30, 2007.



- **Incarceration for violations.** As a result of violations of the bill's felony prohibition, there could be a very small number of additional offenders sentenced to prison. This could increase the Department of Rehabilitation and Correction's GRF-funded incarceration expenditures. However, the magnitude of any such increase would likely be no more than minimal because the number of persons who might violate the bill's prohibition in any given year appears likely to be small at most.
- **Fines for violations.** As a result of violations of the bill's prohibition, additional revenue, in the form of state court costs, may be collected locally and forwarded for deposit in the state treasury to the credit of the GRF and the Victims of Crime/Reparations Fund (Fund 402). The state court costs for a felony offense total \$45, of which the GRF receives \$15 and Fund 402 receives \$30. Given the expectation that there would likely be a relatively small number of new cases in which individuals are charged with violating the bill's prohibitions, the additional state revenue will likely be negligible.
- **Implementation and enforcement.** The bill would require the State Medical Board to adopt rules to implement the certification of radiologist assistants. Costs for the Board would increase due to rule promulgation and other start-up costs in the first year. Costs for administration, oversight, and enforcement, relating to the certification of radiologist assistants, would also increase. The Board would also realize a gain in revenues from application fees for radiologist assistants. The total revenue increase would be dependent upon the number of radiologist assistants applying for certification. Expenditures would come from Fund 5C6, Operating Expenses. Revenues would be deposited into the fund.
- **Background checks.** Radiologist assistants applying for initial certification or restoration of a certificate would be required to have criminal background checks performed. The applicant would pay the fee of \$22 to the Attorney General's Bureau of Criminal Identification and Investigation (BCII), which would be deposited into Fund 106, General Reimbursement Fund. Any gain in revenue by BCII would likely be offset by an increase in expenditures related to performing these criminal records checks.
- **Adjudication of mental competency.** The bill allows the State Medical Board, if a radiologist assistant is mentally ill or mentally incompetent, to file an affidavit for an adjudication hearing in probate court. The bill states that the Attorney General may represent the Board in these proceedings. LSC assumes the number of adjudications conducted under these circumstances would be small.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
County and Municipal Courts			
Revenues	Potential minimal gain	Potential minimal gain	Potential minimal gain
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase
County Courts of Common Pleas			
Revenues	Potential minimal gain	Potential minimal gain	Potential minimal gain
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **Misdemeanor costs.** As a result of potential misdemeanor violations relating to practicing without certification and representing oneself as a radiologist assistant without a certificate, it is possible that county and municipal court costs and county jail costs could increase. It is also possible that any court costs could be partially offset by fine revenue. LSC estimates the number of violators would be small. Additionally, the bill makes failing to make required reports a minor misdemeanor on a first offense. On each subsequent offense, the violator is guilty of a misdemeanor of the fourth degree with no term of imprisonment, but a fine of up to \$1,000. This could increase county and municipal court costs. It is also possible that any court costs could be partially offset by fine revenue. LSC assumes the number of violators would be small.
- **Felony cost.** As a result of the felony penalty for violating the bill's prohibitions, it is possible that court costs could increase for county courts of common pleas. As noted, it appears unlikely that the bill will create many, if any, new cases for county criminal justice systems to process. Any resulting increase in a county's criminal justice system expenditures is likely to be no more than minimal because such violations would likely be rare. Furthermore, the bill could result in an increase in court costs and fine revenue collected by counties from offenders. However, given that the number of cases is likely to be small, the amount of additional court cost and fine revenue that counties may collect is likely to be no more than minimal at most.
- **Affidavits for a hearing.** The bill allows the State Medical Board, if a radiologist assistant is mentally ill or mentally incompetent, to file an affidavit for an adjudication hearing in probate court. It is possible that probate courts could realize an increase in expenditures relating to this. LSC assumes the number of affidavits issued in these circumstances would be small.

Detailed Fiscal Analysis

The bill creates certification requirements for radiologist assistants.

Radiologist assistants

The bill creates a process for certifying radiologist assistants. The bill specifies the duties a radiologist assistant may perform. The bill also specifies the qualifications needed for certification.

The bill specifies what procedures the radiologist assistant may perform, as well as those procedures that they may not perform. The bill also specifies what is required of a physician to be eligible to supervise a radiologist assistant and the level of supervision required under certain circumstances. The bill specifies that the supervising radiologist of a radiologist assistant assumes legal liability for the services provided by the assistant. Failure to provide appropriate supervision of a radiologist assistant constitutes a reason for which the Board must take disciplinary action against the supervising radiologist.

Implementation schedule

The bill specifies that not later than six months after the bill's effective date, the Board must implement all procedures necessary to accept applications from individuals seeking to obtain certificates to practice as radiologist assistants, process the applications, and issue the certificates. By the same deadline, the Board must adopt all necessary rules to implement its program for regulation of radiologist assistants.

Prohibitions against uncertified practice

The bill prohibits a person from practicing as a radiologist assistant without holding a radiologist assistant certificate. The bill also prohibits a person from holding himself or herself out in any manner as a radiologist assistant without a radiologist assistant certificate.

Under the bill, whoever violates either prohibition is subject to criminal penalties. On a first offense the person is guilty of a misdemeanor of the first degree, on each subsequent offense a felony of the fourth degree. The bill does delay the prohibition against practicing without a certificate from the Board until nine months after the bill's effective date.

Certification application and issuance procedures

The bill requires each person seeking to practice as a radiologist assistant to file with the State Medical Board an application on a form prescribed and supplied by the Board. The application must be accompanied by the fee established in rules to be adopted by the Board. The Board shall not grant a certificate to practice as a radiologist assistant unless the Board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate issued.

The bill specifies the fees for duplicate and restoration certificates. The bill requires the Board to adopt rules to implement and administer the certification of radiologist assistants. The bill requires the Board to take into consideration the guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists.

Disciplinary actions, investigations, etc.

The bill specifies the reasons for which the Board is required to take action against a radiologist assistant or applicant. Some procedures that may have fiscal effects on other entities are highlighted below.

If the Board has reason to believe that any person who has been granted a certificate to practice as a radiologist assistant is mentally ill or mentally incompetent, it may file an affidavit in the probate court in the appropriate county. The Attorney General may represent the Board in any proceeding commenced.

The bill specifies some investigation procedures and states that a subpoena issued by the Board may be served by a sheriff, sheriff's deputy, or a Board employee. A sheriff's deputy who serves a subpoena is to receive the same fees as a sheriff. Each witness who appears before the Board in obedience to a subpoena is to receive the fees and mileage provided for witnesses in civil cases in the courts of common pleas.

Reporting requirements

Within 60 days after any formal disciplinary action has been taken by any health care facility against any individual holding a valid certificate to practice as a radiologist assistant, the chief administrator or executive officer of the facility shall report to the Board the name of the individual, the action taken by the facility, and a summary of the underlying facts leading to the action taken. A radiologist assistant, professional association or society of radiologist assistants, physician, or professional association or society of physicians that believes a violation of law or rule of the Board has occurred shall report to the Board the information on which the belief is based. Any professional association or society composed primarily of radiologist assistants that suspends or revokes an individual's membership for violations of professional ethics, or for reasons of professional incompetence or professional malpractice, within 60 days after a final decision, shall report to the Board, the action taken by the organization and the summary of the underlying facts leading to the action taken. Any insurer providing professional liability insurance to any person holding a valid certificate to practice as a radiologist assistant or any other entity that seeks to indemnify the professional liability of a radiologist assistant shall notify the Board within 30 days after the final disposition of any written claim for damages where such disposition results in a payment exceeding \$25,000.

Whomever violates the requirements listed above is guilty of a minor misdemeanor on a first offense; on each subsequent offense the person is guilty of a misdemeanor of the fourth degree, except that an individual guilty of a subsequent offense shall not be subject to imprisonment, but to a fine of up to \$1,000 for each offense.

Radiologist assistants in other states

According to the American Society of Radiologic Technologists (ASRT), there are currently 11 states that have some form of licensure or certification process for radiologist assistants. The ASRT developed a curriculum for education programs for radiologist assistants in 2002 and 2003. In the fall of 2003, Loma Linda University in Loma Linda, California began the first educational program for radiologist assistants. According to ASRT's web site, educational programs for radiologist assistants are also at the following locations: University of Medicine and Dentistry of New Jersey in Newark, New Jersey; Midwestern State University in Wichita Falls, Texas; Virginia Commonwealth University in Richmond, Virginia; University of Arkansas for Medical Sciences in Little Rock, Arkansas; University of North Carolina at Chapel Hill; Bloomsburg University in Pennsylvania; Quinnipiac University in Hamden, Connecticut; Wayne State University in Detroit, Michigan; and Weber State University in Ogden, Utah.

According to an ASRT spokesperson, the recently created Master of Science in Imaging Assistant Program at The Ohio State University would likely meet the educational standards of a radiologist assistant program.

State fiscal effects

Certification

The bill would require the State Medical Board to adopt rules to implement the certification of radiologist assistants. LSC assumes that costs for the Board would increase due to rule promulgation and other start-up costs in the first year. Costs for administration, oversight, and enforcement would also increase after the program got up and running. The Board would also realize a gain in revenue from application fees for radiologist assistants. The total revenue increase would be dependent upon the number of radiologist assistants applying for certification.

Radiologist assistants applying for initial certification or restoration of a certificate would be required to have criminal background checks performed. The applicant would pay the fee of \$22 to the Attorney General's Bureau of Criminal Identification and Investigation (BCII), which would be deposited into Fund 106, General Reimbursement Fund. Any gain in revenue by BCII would likely be offset by an increase in expenditures related to performing these criminal records checks.

Violations

The bill prohibits a person from practicing as a radiologist assistant without holding a radiologist assistant certificate. The bill also prohibits a person from holding himself or herself out in any manner as a radiologist assistant without a radiologist assistant certificate. Under the bill, whoever violates either prohibition is subject to criminal penalties. On a first offense the person is guilty of a misdemeanor of the first degree, on each subsequent offense a felony of the fourth degree. Although most violations are likely to be handled administratively, there could be a very small number of additional offenders sentenced to prison for the felony offense. This could increase the Department of Rehabilitation and Correction's GRF-funded incarceration costs. However, the magnitude of any such increase would likely be no more than minimal

because the number of persons who might violate the bill's prohibition in any given year appears likely to be small at most.

As a result of violations of the bill's prohibition, additional revenue, in the form of state court costs, may be collected locally and forwarded for deposit in the state treasury to the credit of the GRF and the Victims of Crime/Reparations Fund (Fund 402). The state court costs for a felony offense total \$45, of which the GRF receives \$15 and Fund 402 receives \$30. Given the expectation that there would likely be a small number of new cases, if any, in which individuals are charged with violating the bill's prohibitions, the additional state revenue will likely be negligible.

The bill allows the State Medical Board, if a radiologist assistant is mentally ill or mentally incompetent, to file an affidavit for an adjudication hearing in probate court. The bill states that the Attorney General may represent the Board in these proceedings. LSC assumes the number of adjudications conducted under these circumstances would be small.

Local fiscal effects

Violations

On a first offense of practicing without holding a radiologist assistant certificate or holding oneself out in any manner as a radiologist assistant without a radiologist assistant certificate, the person is guilty of a misdemeanor of the first degree; on each subsequent offense, a felony of the fifth degree. As a result of the misdemeanor penalty, it is possible that county or municipal court costs and county jail costs could increase. It is also possible that any court costs could be partially offset by potential fine revenue.

As a result of the felony penalty, it is possible that court costs could increase for county courts of common pleas. As noted, it appears unlikely that the bill will create many, if any, new cases for county criminal justice systems to process. Any resulting increase in a county's criminal justice system expenditures is likely to be no more than minimal because such violations would likely be rare. Furthermore, the bill could result in an increase in court costs and fine revenue collected by counties from offenders. Given that the number of cases is likely to be small, the amount of additional court cost and fine revenue that counties may collect is likely to be no more than minimal at most.

The bill requires certain entities and persons to report violations by and/or actions taken against radiologist assistants. Failure to do so would result in a minor misdemeanor on a first offense; on each subsequent offense the person is guilty of a misdemeanor of the fourth degree, except that an individual guilty of a subsequent offense shall not be subject to imprisonment, but to a fine alone of up to \$1,000 for each offense.

The bill allows the State Medical Board, if a radiologist assistant is mentally ill or mentally incompetent, to file an affidavit for an adjudication hearing in probate court. It is possible that probate courts could realize an increase in expenditures relating to this. LSC assumes the number of affidavits issued in these circumstances would be small.

It does not appear that the bill would have any other direct effects on local governmental entities. However, the Ohio Hospital Association (OHA) has expressed concern that certifying

could have the indirect effect of increasing labor costs. According to OHA, certified/licensed professionals tend to demand more money and also tend to reduce supply, thus increasing labor costs.

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