



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 122 of the 128th G.A. **Date:** October 27, 2009

Status: As Reported by House Health **Sponsor:** Rep. Boyd

Local Impact Statement Procedure Required: No — Possible indirect local effects

Contents: To establish standards for physician designations by health care insurers

State Fiscal Highlights

| STATE FUND | FY 2010 | FY 2011 | FUTURE YEARS |
|---|----------------------------|----------------------------|----------------------------|
| General Revenue Fund | | | |
| Revenues | - 0 - | - 0 - | - 0 - |
| Expenditures | Potential minimal increase | Potential minimal increase | Potential minimal increase |
| Operating Fund (Fund 5540) – Department of Insurance | | | |
| Revenues | Potential minimal gain | Potential minimal gain | Potential minimal gain |
| Expenditures | Potential minimal increase | Potential minimal increase | Potential minimal increase |

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- The bill may increase the Department of Insurance's administrative costs to oversee the physician designation requirements. It may also increase fines and penalties collected by the Department if an insurer violates such requirements. Any increase in administrative costs would depend on insurer compliance with the bill's provisions, and would be paid from the Department of Insurance Operating Fund (Fund 5540).

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

The bill proposes to establish uniform standards and procedures to be used by "health insurers," including a state health benefit plan, a local government's health benefit plan, and the state's Medicaid Program, and third-party administrators when making "physician designations." The bill defines a physician designation to be "a grade, star, tier, or any other rating" that an insurer might use to represent its assessment of a physician's cost efficiency, quality of care, or clinical performance. The bill requires insurers that employ physician designations to follow the proposed standards and procedures when assigning them. The bill provides that a pattern of violation of the requirements by a health insurer that is regulated by the Department of Insurance would be considered an unfair and deceptive act or practice in the business of insurance. The bill authorizes the Department to adopt rules for the purposes of physician designation.

The bill requires an insurer that employs a physician designation system to hire an independent ratings examiner to monitor the insurer's compliance with the bill's requirements. The examiner must be from an approved list issued by the Department of Insurance and is required to report every six months to the Department on the insurer's compliance, including in the report details on the methods used in making physician designations; the Superintendent of Insurance is required to establish a process for approving examiners. The bill requires an insurer to provide a written notice to a physician about his or her initial designation and any changes to the designation thereafter before it discloses such designation to the public. Any public disclosure related to a physician designation must include certain disclaimers as specified by the bill. The bill also allows a physician who is subject to such designation to challenge and appeal his or her designation to the insurer. The bill specifies that an insurer must include a quality-of-care component in its designations, use statistical analyses in making them, and disclose complete data and methodology used in its designation if requested.

Fiscal effect

The bill may minimally increase the Department of Insurance's administrative costs to oversee the physician designation requirements. It may also increase the Department's penalties collection if an insurer, which is regulated by the Department, violates the bill's requirements. Unfair or deceptive acts or practices in the business of insurance may be subject to civil penalties up to \$3,500 per violation, or \$35,000 in the aggregate during a six-month period, under section 3901.22 of the Revised Code. That section also allows the Department to recover one-half its costs of enforcing the law, up to \$100,000, with the recovered amount to be deposited in Fund 5540. Any increase in administrative costs would depend on insurer compliance with the law, and would be paid from Fund 5540.

The provision in the bill requiring insurers to hire an independent ratings examiner would increase administrative costs for health insurers, including public employee benefit plans. Such cost increases are likely to lead to increases in premiums paid by the state and

local governments to provide health benefits to employees and their dependents. Any such increases are likely to be minimal. Other bill provisions have no direct fiscal impact to local governments or to the state as providers of health insurance benefits. The provision that requires "health insurers" that employ a physician designation system to use the proposed standards in this bill may affect the bargaining power between physicians and the insurers that pay them, and could thus affect health insurance premiums paid to provide coverage to employees and their dependents. As of this writing, LSC staff could not determine whether the state's health benefit plan, the state's Medicaid Program, or a local government's health benefit plan currently assign a physician designation. LSC staff would consider any effect the bill may have on health insurance premiums to be indirect fiscal effects.

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