



Ohio Legislative Service Commission

Wendy Risner

Fiscal Note & Local Impact Statement

Bill: [Sub. H.B. 367 of the 129th G.A.](#) **Date:** November 27, 2012
Status: As Reported by Senate Health, Human Services & Aging **Sponsor:** Rep. Maag

Local Impact Statement Procedure Required: No

Contents: Licensing of pediatric respite care programs

State Fiscal Highlights

- **Ohio Department of Health (ODH).** ODH is required to establish a licensure program for pediatric respite care programs. ODH anticipates initial start-up costs to be approximately \$58,400 for rule promulgation and IT costs. After these initial start-up costs, ODH anticipates that revenues generated from license and inspection fees would be sufficient to cover expenses associated with operating the program.
- **Attorney General.** The bill requires background checks on applicants (those who would provide direct care to patients) for employment with a pediatric respite care program. The Attorney General's Office performs background checks. Thus, the office may experience an increase in administrative costs and also a subsequent gain in revenues relating to additional background checks.

Local Fiscal Highlights

- **Sheriffs' offices.** The bill requires criminal background checks for applicants (those who would provide direct care to patients) for employment with a pediatric respite care program. Some applicants may go to sheriffs' offices for these checks. As a result, these offices may experience an increase in administrative costs and also a subsequent gain in revenues.
- **County courts of common pleas.** The bill specifies that ODH must petition the court of common pleas in the appropriate county for an order enjoining a person or agency from conducting unlicensed activities. 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.

Detailed Fiscal Analysis

Pediatric Respite Care Licensing Program

The bill requires the Ohio Department of Health (ODH) to regulate pediatric respite care programs through a licensing process that is similar to ODH's existing hospice care licensing program. The bill outlines the services that may be provided by a program, as well as the required components of a program. The bill also discusses the licensure process and specifies that a license fee cannot exceed \$600 unless approved by the Controlling Board. Additionally, the maximum fee that may be approved by the Controlling Board is \$900. A license is valid for three years and renewal licenses may be obtained. ODH is required to inspect pediatric respite care program facilities and services as necessary to meet the requirements of the bill and rules adopted under it. An inspection fee cannot exceed \$1,750 unless approved by the Controlling Board and no approved fee can exceed \$2,625. The bill requires the Director of Health to adopt rules that provide for pediatric respite care licensure.

According to ODH, initial start-up costs for the pediatric respite care program would be approximately \$58,400 for rule promulgation and IT costs. These duties would be carried out by existing staff. The total costs for operating a pediatric respite care program would depend on the number of facilities seeking licensure. However, after initial start-up costs, ODH anticipates that revenues generated from license and inspection fees would be sufficient to cover expenses associated with operating the program. ODH currently licenses 131 hospice facilities. According to ODH, 0.32 full-time equivalent staff are devoted to the hospice licensing program. In FY 2011, the program collected \$58,200 in revenues.

Background checks

The bill provides that pediatric respite care programs are to be subject to the same requirements as hospice care programs. Therefore, applicants (those who would provide direct care to patients) for employment with a pediatric respite care program will be subject to criminal background checks. As a result, the Attorney General's Bureau of Criminal Identification and Investigation, which performs state-only background checks and if requested or required, administers FBI background checks, could experience an increase in administrative expenses if these entities do not currently require background checks. However, the fee would likely cover any expenses. The base fees of the state-only and FBI background checks are \$22 and \$24, respectively. The \$22 state-only background check fee and \$2 of the \$24 FBI background check fee are deposited into the General Reimbursement Fund (Fund 1060). The remaining \$22 of the FBI background check fee is sent to the FBI.

Authorized providers of background checks may include local county sheriffs' offices or certain approved deputy registrars contracting with the Ohio Bureau of Motor Vehicles. As a result, some of these entities may realize an increase in administrative expenses and a subsequent gain in revenue as a result of the bill.

Unlicensed activity prohibitions

The bill prohibits a person or public agency from doing any of the following without a license: (1) holding itself out as providing a pediatric respite care program; (2) providing a pediatric respite care program; and (3) using the term "pediatric respite care program" or any term containing "pediatric respite care" to describe or refer to a health program facility, or agency. The bill does provide for a list of persons and facilities that are not subject to the prohibitions against unlicensed pediatric respite care activities. The bill specifies that ODH must petition the court of common pleas in the appropriate county for an order enjoining that person or agency from conducting unlicensed activities. 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.

Delivery of non-self-injectable cancer medications

The bill specifies that a pharmacist or pharmacy intern is not to dispense a nonself-injectable cancer drug by delivering to or causing the drug to be delivered directly to the patient, the patient's representative, or the patient's private residence. However, the bill specifies that this prohibition does not apply when the patient's private residence is an institutional or health care facility or when the patient is a hospice patient or home health agency client and the pharmacist or pharmacy intern has been notified that an employee or agency of the hospice care program or home health agency will be administering the drug to the patient.

According to a spokesperson at the Ohio Department of Job and Family Services (ODJFS), the Medicaid Program does not currently allow these drugs to be delivered to a patient, so there should be no fiscal impact to ODJFS. Additionally, this provision should have no direct fiscal impact on self-insured health benefit plans of either the state and/ or local governments. However, the provision may have indirect fiscal effects on "health insurers," including public employee health benefit plans, because the provision may restrict the site of delivery of a "non-self-injectable cancer drug." Generally, cancer medications that are dispensed by a pharmacy or delivered through a pharmacy are covered as "pharmacy plan benefits"; and those that are delivered to, or administered in, a physician's office or a hospital are typically covered under "medical plan benefits." As of this writing, LSC staff is unable to determine whether insurers cover a "non-self-injectable cancer drug" under a pharmacy plan or a medical plan.

Methadone clinics

As a requirement for methadone treatment licensure, the bill specifies that an alcohol and drug addiction program offering such treatment cannot maintain the treatment within a 500-foot radius of a public or private school, licensed day-care center, or other child-serving agency. Relative to methadone treatment licensure applications pending on the bill's effective date, the bill requires the Ohio Department of Alcohol and Drug Addiction Services (ODADAS) to apply the requirement described above when determining whether to issue the license. The bill permits ODADAS to waive the requirement if it receives from each public or private school, licensed day-care center, or other child-serving agency within a 500-foot radius of the entity, a letter of support for the location that ODADAS finds to be satisfactory. The bill prohibits ODADAS from considering proximity of a public or private school, licensed day-care center, or other child-serving agency when determining whether to renew, withdraw, or revoke a license to maintain methadone treatment.

If ODADAS charges a methadone treatment licensing fee, the bill could reduce license revenue by limiting the number of methadone clinics. However, there would also be a corresponding decrease in administrative costs associated with processing fewer licenses.