

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7510

BILL NUMBER: HB 1528

DATE PREPARED: Feb 2, 1999

BILL AMENDED: Feb 1, 1999

SUBJECT: Hospice licensure and approval.

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FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill establishes requirements for hospice licensure and approval. The bill provides that a hospice license or approval is valid for one year. It requires the State Department of Health to charge an annual hospice license or approval fee of \$100. The bill provides for a provisional license or approval for a hospice program operating before July 1, 1999.

This bill requires an survey by the State Department of Health to determine whether a hospice program not operating before July 1, 1999, should receive a license or approval. The bill provides for a survey by the State Department of Health to determine whether a hospice should receive a license or approval. It exempts certain individuals from hospice licensure and approval. It requires the State Department of Health to provide recommendations to the General Assembly regarding the frequency with which hospices should be inspected.

This bill makes it a Class A misdemeanor for a person to represent to the public that the person offers hospice services or to provide hospice services without a hospice license or approval. The bill requires the State Department of Health to investigate a hospice about which the State Department of Health receives a complaint from a hospice patient or a hospice patient's family. It requires the State Department of Health to establish and maintain a statewide, toll free number to receive complaints.

This bill allows the State Department of Health to sanction a hospice that: (1) violates a standard; (2) commits a violation of law; or (3) conducts a practice detrimental to the hospice's patients. The bill requires the State Department of Health to notify the Attorney General if the State Department of Health has evidence of an unlicensed or unapproved hospice. It allows the Attorney General to seek an injunction and to prosecute a person that operates a hospice without a license or approval. The bill requires the owner or operator of a licensed or approved hospice program to obtain a limited criminal history of each employee of the hospice program who will provide hospice services.

This bill requires each licensed or approved hospice program to provide a written disclosure to each potential

patient that includes the following: (1) A description of available services. (2) A description of the hospice program's internal complaint resolution process. (3) A notice that the patient has the right to refuse any component of the services offered by the hospice program. (4) A statement that a hospice employee may provide extra services to a patient or the patient's family, but may be reimbursed for those services only by providing a written receipt to the patient or to the patient's family. (5) A toll free number that the patient or a member of the patient's family may use to report problems regarding the hospice program.

This bill repeals optional certification of hospice providers by the State Department of Health. It makes conforming amendments.

Effective Date: July 1, 1999.

Explanation of State Expenditures: (Revised) There may be a need for the State Department of Health (SDOH) to hire one public nurse health surveyor to conduct the inspections and the licensing requirements of this bill. The salary, fringe benefits, and indirect costs for this position is \$41,054 in FY 2000 and \$40,882 in FY 2001. The funds and resources required above could be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations. The December 31, 1998 manning table shows the SDOH has 99 vacant positions. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

There is also an estimated \$9,000 in state travel costs. It is estimated that the toll free hot line number required in this bill will cost \$504 annually. There may also be some legal costs that result from any litigation from complaints regarding hospices that fail to comply with the standards in the bill. These legal costs should be minimal.

This bill requires the owner or operator of a licensed or approved hospice program to obtain a limited criminal history of each employee who will provide hospice services. It is assumed that the \$7 dollar fee charged by the State Police for a limited criminal history check will cover the cost of provided the criminal history information.

Explanation of State Revenues: This bill creates a licensing fee of \$100. The SDOH is currently receiving \$100 annually from 69 hospice facilities on a volunteer basis. It is estimated that 84 hospices will need to be licensed with the passage of this bill. The estimated revenue that will be collected in the first year is \$8,400 an increase of \$1,500 from what is currently collected. The bill states that these fees are to be used to offset administrative costs of the licensing program.

The bill allows the SDOH to impose a civil penalty in an amount not to exceed \$10,000 against the owner or operator of a hospice for a number of violations listed in the bill. Civil penalty fines are deposited in the state General Fund.

The bill allows Attorney General to impose a civil penalty not to exceed \$25,000 for each day of unlicensed or unapproved operation of a hospice. Civil penalty fines are deposited in the state General Fund.

This bill creates a Class A Misdemeanor for a person to represent to the public that the person offers hospice services or to provide hospice services without a hospice license. This bill prohibits an individual from owning

or operating a hospice program if the person has been convicted of certain crimes. The bill creates a Class A misdemeanor if a person who owns or operates a hospice program knowingly or intentionally violates the previous provision. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund could increase. The maximum fine for a Class A Misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, county or municipal court (courts of record), 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

This bill creates a Class A Infraction if the person who owns or operates a hospice employs an individual whose criminal history indicates convictions of certain crimes. If additional court cases occur, revenue to the state General Fund may increase if infraction judgments and court fees are collected. The maximum judgment for a Class A Infraction is \$10,000 which is deposited in the state General Fund. If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed. 70% of the court fee would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Explanation of Local Expenditures: A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: If additional court actions occur because of a Class A Misdemeanor and a guilty verdict is entered the county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. If additional court actions are filed and a judgment is entered for infractions the county general fund would receive 27% of the \$70 court fee that is assessed in a court of record.

For both a Class A Misdemeanor and a Class A Infraction, local governments would receive revenue from the following sources: (1) Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: State Department of Health, State Police.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Norma Selby, State Department of Health, 233-7573.