

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5509 S SB	<b>Title:</b> Health care providers	<b>Agency:</b> 303-Department of Health
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

<b>FUND</b>					
<b>Total \$</b>					

### Estimated Expenditures from:

	FY 2008	FY 2009	2007-09	2009-11	2011-13
FTE Staff Years	9.2	9.2	9.2	9.2	9.2
<b>Fund</b>					
General Fund-State 001-1	17,000	17,000	34,000	34,000	34,000
Health Professions Account-State 02G-1	782,000	719,000	1,501,000	1,438,000	1,438,000
<b>Total \$</b>	799,000	736,000	1,535,000	1,472,000	1,472,000

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

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## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

This bill modifies the Uniform Disciplinary Act (UDA) by changing the way complaints are handled, incorporating court ruling into statute, changing the definitions in the act, and by requiring written complaints to be signed by the complainant.

Section 2: Requires members of the disciplining authority to determine if there is probable cause to merit an investigation into unprofessional conduct. The disciplining authority may consult with at least one practitioner who utilizes the procedure in question to determine whether the license holder or applicant against whom the complaint has been filed is guilty of unprofessional conduct.

Section 3: Requires testimony of at least one practitioner who used the same treatment as the subject of the complaint before a finding of unprofessional conduct.

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

The Department of Health, Division of Health Systems Quality Assurance (HSQA):

Revenue will need to be developed through fee increases to offset expenditures in the Health Professions Account (Fund 02G). Depending on the impact of this bill and other new legislation that may also impact program expenditures, an exception to 1-601 may be required.

### II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

Assumptions:

1) To establish probable cause the disciplining authority will have to determine if there is sufficient information to support the belief that it is probable/likely that the practitioner committed unprofessional conduct; 2) HSQA is assuming that this requirement will also increase the number of requests for material related to authorization decision (the documentation on how the decision to investigate was made); and 3) HSQA is estimating an increase in public disclosure requests and discovery requests based on the requirements of this bill.

HSQA, Office of Health Professions Quality Assurance (HPQA), Fund 02G:

Section 2: Starting in FY 2008, HPQA must determine as to each complaint that there is probable cause to merit an investigation. The requirement to prove probable cause will increase the amount of time for the disciplinary panel to reach a decision and will require legal counsel and advice.

Ongoing costs starting in FY 2008 related to determining probable cause for investigations and increase in requests for information will include additional staff time and associated costs, board or commission time, printing and postage. Staff includes 1.80 FTE Board/Commission time, 0.37 FTE Executive Director (WMS, Band 3), 1.49 FTE Health Care Investigator 2, 0.18 FTE Health Care Investigator 4, 0.74 FTE Health Services Consultant 3, 0.12 FTE Customer Service Specialist 2, 1.49 FTE Hearings Examiner 3 (Staff Attorney), 0.06 Legal Secretary 3, 0.57 Legal Secretary 2, 0.06 Legal Secretary 1, and 0.22 FTE Office Assistant 3. There will also be one-time small equipment costs in FY 2008. Total staff equates to 7.10 FTE.

HPQA is estimating an increase in motions filed as it is likely respondents will challenge probable cause determinations

and move to dismiss charges. Based upon the number of open cases, HPQA is estimating that five percent will have motions to dismiss. HPQA is also estimating that eight cases per month will be challenged. Ongoing costs starting in FY 2008 related to the increase in motions include staff time and associated costs, printing and postage. Staff will include a 0.22 FTE Hearing Examiner 3 (Health Law Judge) and 0.03 FTE Legal Secretary 2. There will also be one-time small equipment costs in FY 2008. Total staff equates to 0.25 FTE.

Generally, expert witnesses are used during the legal phase of the complaint process. This bill permits HPQA to consult an expert witness when conducting an investigation of unprofessional conduct. HPQA may consult with a practitioner who performs the procedure that is the subject of the complaint as part of the investigative and disciplinary process. The use of experts during investigation has been used on limited bases, primarily in the Dental Profession. This bill makes it very clear that experts can be used during the investigative stage, therefore, encouraging more professions to use an expert.

HPQA is estimating that at least, but not limited to, the following professions will implement this process: Medical, Psychology, Naturopathy, Chiropractic and Osteopathic. HPQA assumes that experts will be used for those professions that provide direct care to patients. It is further assumed that experts will be used for investigations related to standard of care. During the 2003-05 biennium, 3,060 investigations were conducted in those professions that are likely to implement this process. Of those, 28 percent, or 857 for the biennium involved standard of care.

Using the data above, HPQA estimates 429 standard of care or sexual misconduct cases each fiscal year for fiscal note purposes. Of those, ten percent, or 43 cases are likely to result in expert review at the investigative stage. Ongoing costs starting in FY 2008 include staff time and associated costs to process and monitor the additional expert witness contracts estimated at \$77,400 per year (43 standard of care and sexual misconduct cases, times an average of six (6) hours per case, times an average of \$300 per hour), printing and postage. Staff includes 0.01 FTE Secretary Supervisor and 0.04 FTE Office Assistant 3. Staff equates to 0.05 FTE.

Section 3: Standard of practice cases usually have expert witnesses testify already. This section will continue that cost and possibly extend it to non standard of care cases. HPQA does not anticipate a cost savings in this area. Any reduction in cost would be balanced against the additional length of time to prove actual harm in Section 2.

HSQA, Office of Emergency Medical Services (EMS), General Fund-State:

Section 2: Starting in FY 2008, EMS must determine as to each complaint that there is probable cause to merit an investigation. The requirement to prove probable cause will increase the amount time for the case management team to reach a decision and will require legal counsel and advice.

Ongoing costs starting in FY 2008 related to determining probable cause for investigations and increase in requests for information will include additional staff time and associated costs, printing and postage. Staff includes 0.02 FTE Section Manager (WMS, Band 2), 0.02 FTE Chief Investigator (WMS, Band 2), 0.01 Legal Secretary 2, 0.02 Hearings Examiner 3 (Staff Attorney) and .01 FTE Office Assistant 3. Staff equates to 0.08 FTE.

Generally, expert witnesses are used during the legal phase of the complaint process. This bill permits EMS to consult an expert witness when conducting an investigation of unprofessional conduct. EMS may consult with a practitioner who performs the procedure that is the subject of the complaint as part of the investigative and disciplinary process. This bill makes it very clear that experts can be used during the investigative stage, therefore, encouraging more usage of an expert.

In FY 2006, EMS had 44 standard of care cases, of those EMS is estimating that ten percent are likely to result in expert review. For fiscal note purposes, EMS is estimating that four cases will result in expert review. Ongoing costs starting in FY 2008 include staff time and associated costs to process and monitor the additional expert witness contracts estimated at \$7,200 per year (4 standard of care and sexual misconduct cases, times an average of six (6) hours per case, times an average of \$300 per hour), printing and postage. Staff includes 0.01 FTE Health Services Consultant 3.

Administration:

Ongoing costs starting in FY 2008 include costs for salary, benefits, and associated costs for a 0.70 FTE Health Services

Consultant 2 and a 1.0 FTE Financial Analyst 2 to assist with increased administrative workload.

## Part III: Expenditure Detail

### III. A - Expenditures by Object Or Purpose

	FY 2008	FY 2009	2007-09	2009-11	2011-13
FTE Staff Years	9.2	9.2	9.2	9.2	9.2
A-Salaries & Wages	466,000	466,000	932,000	932,000	932,000
B-Employee Benefits	104,000	104,000	208,000	208,000	208,000
C-Personal Serv Contr	84,000	84,000	168,000	168,000	168,000
E-Goods and Services	89,000	74,000	163,000	148,000	148,000
G-Travel					
J-Capital Outlays	48,000		48,000		
M-Inter Agency Fund Transfers					
N-Grants, Benefits Services					
P-Debt Service					
S-Interagency Reimbursement					
T-Intra-Agency Reimbursement	8,000	8,000	16,000	16,000	16,000
<b>Total:</b>	<b>\$799,000</b>	<b>\$736,000</b>	<b>\$1,535,000</b>	<b>\$1,472,000</b>	<b>\$1,472,000</b>

### III. B - Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2008	FY 2009	2007-09	2009-11	2011-13
Board/Commission Member	39,000	1.8	1.8	1.8	1.8	1.8
Chief Investigator (WMS2)	74,952	0.0	0.0	0.0	0.0	0.0
Customer Svs Specialist 2	34,128	0.1	0.1	0.1	0.1	0.1
Executive Director (WMS3)	76,848	0.4	0.4	0.4	0.4	0.4
Financial Analyst 2	42,480	1.0	1.0	1.0	1.0	1.0
Hearings Examiner 3	67,920	1.7	1.7	1.7	1.7	1.7
Hlth Care Investigator 2	53,052	1.5	1.5	1.5	1.5	1.5
Hlth Care Investigator 4	58,548	0.2	0.2	0.2	0.2	0.2
Hlth Services Consultant 2	48,036	0.7	0.7	0.7	0.7	0.7
Hlth Services Consultant 3	55,716	0.8	0.8	0.8	0.8	0.8
Legal Secretary 1	34,920	0.1	0.1	0.1	0.1	0.1
Legal Secretary 2	36,624	0.6	0.6	0.6	0.6	0.6
Legal Secretary 3	39,432	0.1	0.1	0.1	0.1	0.1
Office Assistant 3	31,056	0.3	0.3	0.3	0.3	0.3
Secretary Supervisor	38,496	0.0	0.0	0.0	0.0	0.0
Section Manager (WMS2)	71,328	0.0	0.0	0.0	0.0	0.0
<b>Total FTE's</b>		<b>9.2</b>	<b>9.2</b>	<b>9.2</b>	<b>9.2</b>	<b>9.2</b>

### III. C - Expenditures By Program (optional)

Program	FY 2008	FY 2009	2007-09	2009-11	2011-13
Hlth Systems Quality Assurance (060)	717,000	661,000	1,378,000	1,322,000	1,322,000
Administration (090)	82,000	75,000	157,000	150,000	150,000
<b>Total \$</b>	<b>799,000</b>	<b>736,000</b>	<b>1,535,000</b>	<b>1,472,000</b>	<b>1,472,000</b>

## Part IV: Capital Budget Impact

## Part V: New Rule Making Required

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*