COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1081-03
Bill No.: SCS for SB 316
Subject: Health Care; Health Care Professionals; Health Department; Hospitals; Licenses-Miscellaneous; Physicians
Type: Original
Date: April 13, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
General Revenue	($181,637)	($198,232)	($204,836)
Total Estimated Net Effect on General Revenue Fund	**($181,637)**	**($198,232)**	**($204,836)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Healing Arts Fund	($8,970)	($5,980)	$0
Ambulatory Medical Treatment Center Fund	$110,184	$108,335	$157,684
Total Estimated Net Effect on Other State Funds	**$101,214**	**$102,355**	**$157,684**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>All</u> Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Missouri Consolidated Health Care Plan**, the **Department of Insurance**, the **Missouri Department of Conservation**, the **Department of Transportation**, the **Department of Mental Health**, and the **State Treasurer's Office** assume this proposal would not fiscally impact their agencies.

The **Department of Economic Development** assume this proposal requires the State Board of Registration for the Healing Arts to promulgate guidelines and standards for the performance of office-based surgery by physicians and surgeons. DED estimates that a 6 member committee of the State Board of Registration for the Healing Arts will hold 6 one-day meetings in FY 06 and 4 one-day meetings in FY 07 to develop the guidelines and standards. DED states the costs associated with those meetings include per diems, mileage and meals.

Officials from the **Department of Social Services - Division of Medical Services (DMS)** assume that this proposal would not fiscally impact their agency. DMS assumes payments made by the medical assistance program on behalf of Medicaid eligible individuals would be exempt. DMS also assumes that reimbursement for all services, not just hospital inpatient, under Section

ASSUMPTION (continued)

375.939 is also exempt.

Officials from the **Office of Secretary of State (SOS)** state this proposal prescribes rules for the creation and operation of ambulatory medical treatment centers and ambulatory surgical centers. The Department of Health and Senior Services is instructed to promulgate rules to carry out this proposal. Professional Registration is also instructed to publish rules for ambulatory surgical procedures. These rules could require as many as 24 pages in the Code of State Regulations. For any given rule, roughly one-half again as many pages are published in the Missouri Register as are published in the Code because cost statements, fiscal notes and notices are not published in the Code. The estimated cost of a page in the Missouri Register is $23.00. The estimated cost of a page in the Code of State Regulations is $27.00. The actual costs could be more or less than the numbers given. The fiscal impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded and withdrawn. The SOS estimates the cost of this legislation to be $1,476 in FY 06.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.
Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Health and Senior Services (DOH)** state the following:

DIVISION OF SENIOR SERVICES AND REGULATION (DSSR)
Ambulatory Medical Treatment Center Fund:

Costs
DSSR states as of 2/14/05 there are 89 licensed ambulatory surgical centers in the state. (This number includes two birthing centers and two abortion clinics.) During federal fiscal year 2004, 27 ambulatory surgical centers were inspected/surveyed. A review of time reporting indicates that inspection staff can complete approximately 6 inspections per month or 72 per year.

DSSR states current statutory requirements do not require ambulatory surgical centers to be inspected every year. Section 197.230, RSMo states "The department of health and senior services shall make, or cause to be made, such inspections and investigations as it deems necessary. . ." The language in SB 316 for Section 197.230, RSMo includes the above sentence and goes on to state "However, such inspections shall occur with a frequency that is substantially comparable to the frequency of inspections of hospitals. Section 197.100, RSMo, states ". . . The department of health and senior services shall annually inspect each licensed hospital and shall
ASSUMPTION (continued)

make any other inspections and investigations as it deems necessary for good cause shown. . ." Based on this, DSSR states it would be necessary to inspect annually the 89 currently licensed ambulatory surgical centers.

DSSR states it is difficult to determine the number of new facilities that would be required to be licensed under the new definition of ambulatory medical treatment center. For fiscal note computation purposes, DSSR is using the number of 163 new facilities. This number is based on the following:

1. The Medical Radiation program in the Unit of Health Facility Regulation currently inspects radiation equipment/supplies used in facilities that perform computerized tomography, PET technology, cardiac catheterization, lithotripsy, gamma knife treatment, and radiation therapy. The Unit does not inspect the facility itself, only the equipment/supplies. Our review of Medical Radiation records indicates that approx. 145 facilities fall into the categories identified above.

2. The DOH believes most facilities performing medical resonance imaging are also performing other diagnostic imaging services and are most likely picked up in the other categories. Based on a review of lists provided by the MO Hospital Association (MHA) of information from phone books, DOH identified 9 facilities in St. Louis, Kansas City, St. Joseph, and Springfield that identified themselves as MRI centers that DOH did not capture elsewhere. DOH believe this number to be somewhat under-stated as the department knows of one open MRI center in Jefferson City that was not on the MHA list. DOH are therefore increasing the estimated number to 15 for MRI centers.

3. The DOH believes most facilities offering endoscopy services are also offering other services that already require them to be licensed as an Ambulatory Surgical Center (ASC). (The current list of 89 licensed ASCs include 7 that indicate in their names that they provide endoscopy.) For fiscal note computation purposes DOH will use an estimated number of 3 additional facilities.

An annual inspection for the 89 existing ASCs and 163 new facilities would result in a total of 252 annual inspections to be performed each year.

If each inspection staff person inspects 72 facilities per year, 3.50 FTE would be required for inspections.

Three complaints related to the 89 currently licensed ASCs were received between October 1,

ASSUMPTION (continued)

2004 and Feb. 14, 2005. Extrapolating this to a 12 month time period would result in 8 complaints for the existing 89 licensed ASCs. If this is applied to the entire estimated 252 licensed ambulatory medical treatment facilities this would indicate that approximately 23 complaints would be received annually. Complaints typically take longer to investigate than the time required for a routine annual inspection. Given this, DOH estimates 35 hours per complaint investigation, which would result in 5 complaint investigations per staff person a month. If this is applied to the 23 complaints, approximately .40 FTE would be necessary for complaint investigations.

This results in total required inspection staff FTE of approximately 3.9. For fiscal note computations, this is being rounded to 4 FTE. Inspection staff would be comprised of 2 Health Facility Nursing Consultants and 2 Health Facility Consultants.

In addition, a Health Care Inspector Supervisor would be needed to administer the ambulatory medical treatment center licensing program. This employees duties would include supervision of inspection staff, reviewing statements of deficiency, revising the ambulatory surgical center rules, and writing additional rules specific to the varied types of facilities to be licensed.

One support staff person at the Senior Office Support Staff level would perform clerical functions related to the increased number of licensees and inspections such as time accounting, expense account processing, processing of inspection/investigation documents and correspondence, etc.

Revenues

To cover the projected expenses for the first full year (FY2007), the facilities anticipated to be licensed would need to be assessed a fee of approximately $2,225. During FFY04, the number of licensed ASCs increased by 18%. It is not anticipated that growth in numbers would continue at that pace. If 10% growth in facilities is factored in for FY 2007 and 2008, then facility numbers would increase to 277 facilities in FY 2007 and 305 in 2008. At the fee amount of $2,225, revenues would be $560,700 for FY2006 and increase to $616,325 and $678,625 in FY 2007 and 2008, respectively.

General Revenue Fund:

Reduction in Revenues: Given the current annual ASC licensure fee of $200 that is deposited in the General Revenue and 89 currently licensed ASCs, it is anticipated that the General Revenue Fund would experience a $17,800 decrease in revenues due to this legislation. Under the ASSUMPTION (continued)

legislation, all ambulatory medical center licensure fees would be deposited in the Ambulatory Medical Treatment Center Fund. No fees would go to General Revenue.

During Federal Fiscal Year, the number of licensed ASCs increased by 18%. It is not anticipated that growth in numbers would continue at that pace. If 10% growth in the current number of 89 ASC facilities is factored in for FY 2007 and 2008, then facility numbers would increase to 98 facilities in FY 2007 and 108 in 2008. This would result in projected revenue loss to the General Fund of $19,600 and $21,600 in FY 2007 and 2008, respectively.

General Notes:

For purposes of this fiscal note, DOH assumes that physician's offices are not included under this legislation. There would be a substantial increase in the number of ambulatory medical treatment centers that would need to be licensed and inspected with an increase in the number of complaint investigations that would need to be conducted.

Before an actual licensure fee amount could be determined and promulgated in rule, additional, more detailed analysis of costs and facility numbers would be necessary in order to compute the actual fee amount to be charged.

CENTER FOR HEALTH INFORMATION MANAGEMENT AND EVALUATION (CHIME)
DOH would require two Research Analyst IIIs to handle the work activities associated with the expanded patient abstract reporting by the newly designated ambulatory medical treatment centers, based on the following assumptions:

1. Estimated number of new reporters: 163 newly designated ambulatory medical treatment centers. DOH projects that 90 percent of these centers (163 x.9 =147) would directly report their patient abstract data to DOH rather than submit data through HIDI, primarily due to the expense of the latter option. This assumption is based on the department's experience with the reporting method selected by newly licensed ASCs over the past few years.

2. Currently .6 FTE Research Analyst III time have been utilized for the work associated with direct reporting of patient abstract data for 40 ASCs, with the remaining .4 FTE time directed to other assigned duties. Given that the projected number of new direct reporting facilities would be 4.2 times the current number (147 + 22/40 = 4.2), DOH projects a need for an additional 2.5 FTE Analyst III (4.2 x .6 FTE). This projection is based on the extensive one-on-one communications, technical assistance, and data

ASSUMPTION (continued)

edit/correction activities that are required for these reporting entities, as well as the anticipated demand for data requests and reports on these services.

DOH would require one Research Analyst III to handle the work activities associated with the expanded charge and financial data reporting for ambulatory medical treatment centers, based on the following assumptions:

Charge Data

Estimated number of new reporters: 163 newly designated ambulatory medical treatment centers.

Currently .35 FTE Research Analyst time has been utilized for the charge data reporting activities, with the remaining .65 FTE time directed to other assigned duties. Unlike the patient abstract data, all of the charge data are directly reported to DOH by the providers, with the bulk of staff time devoted to working one-on-one with the ASCs. Given that the projected number of new reporters would be 2.1 times the current number of ASC reporters (163/76 = 2.1), the department projects a need for an additional .74 Research Analyst III (2.1 x .35 FTE) for this activity. This projection is based on the need to handle not only the increased volume of data but also the need for more extensive one-on-one communications, technical assistance, and data edit/correction activities for these new reporting entities. DOH also anticipates increased demand for data requests and reports. (See discussion under Item 7)

Financial Data

1) Estimated number of new reporters: 89 licensed ASCs + 163 newly designated ambulatory medical treatment centers = 252

2) Currently .3 FTE Research Analyst III time has been utilized for financial data reporting by hospitals only (139), with the remaining .7 FTE time directed to other assigned duties. These data are currently available for hospitals from the annual hospital survey and the Medicaid cost reports. These sources of data would not be available for the ASCs and the newly designated ambulatory medical treatment centers. Given that the projected number of new reporters would be 1.8 times the current number of reporters (252/139 = 1.8) , DOH projects that an additional .54 FTE Research Analyst III (1.8 x .3 FTE) would be needed to 1) prepare and maintain an on-line data collection tool for the financial information, 2) handle communications with the reporting facilities and 3) respond to requests for data and reports on the categories of service providers.

FISCAL IMPACT - State Government	FY 2006 (10 Mo.)	FY 2007	FY 2008
GENERAL REVENUE			
Costs - Department of Health and Senior Services			
Personal Service (3 FTE)	($84,480)	($105,829)	($108,475)
Fringe benefits	($36,039)	($45,147)	($46,275)
Expense and equipment	($43,318)	($27,656)	($28,486)
Total Costs - Department of Health and Senior Services	($163,837)	($178,632)	($183,236)
Loss - Department of Health and Senior Services			
Loss of License fees	($17,800)	($19,600)	($21,600)
ESTIMATED NET EFFECT TO GENERAL REVENUE	**($181,637)**	**($198,232)**	**($204,836)**
HEALING ARTS FUND			
Costs - Department of Economic Development			
Meeting costs	($8,970)	($5,980)	$0
ESTIMATED NET EFFECT ON HEALING ARTS FUND	**($8,970)**	**($5,980)**	**$0**

AMBULATORY MEDICAL TREATMENT CENTER FUND			
Income - Department of Health and Senior Services			
Licensure fees	$560,700	$616,325	$678,625
Costs - Department of Health and Senior Services			
Personal Service (6 FTE)	($183,420)	($229,850)	($235,596)
Fringe benefits	($78,247)	($98,054)	($100,505)
Expense and equipment	($188,849)	($180,086)	($184,840)
Total Costs - Department of Health and Senior Services	($450,516)	($507,990)	($520,941)
ESTIMATED NET EFFECT TO AMBULATORY MEDICAL TREATMENT CENTER FUND	**$110,184**	**$108,335**	**$157,684**

FISCAL IMPACT - Local Government	FY 2006 (10 Mo.)	FY 2007	FY 2008
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposal modifies provisions of the law relating to health care providers and ambulatory medical treatment centers.

The proposal modifies definitions for "ambulatory surgical center", "health care provider" and "financial data" in Section 192.665 and creates a new definition for "ambulatory medical treatment centers" in Section 197.200. New language in Sections 192.665 and 192.667, RSMo, changes "hospitals" to "health care providers" and includes hospitals and ambulatory medical treatment centers within the definition of "health care provider". Also, Section 197.200, RSMo, modifies the definition of "ambulatory surgical center" to provide that such centers shall be a subcategory of ambulatory medical treatment centers. Further, LASIK eye surgeries and

DESCRIPTION (continued)

dermatological surgeries involving local anesthesia are exempted from the definition of ambulatory medical treatment centers.

Section 197.205 provides that the Department of Health and Senior Services may establish subcategories of licensure for the various types of ambulatory medical treatment centers.

The annual license fee for applications is changed from two hundred dollars to a sufficient amount to be determined by the Department. All licenses fees shall be deposited in the "Ambulatory Medical Treatment Center Fund", which is created in the State Treasury (Section 197.210).

The Department shall issue licenses to ambulatory medical treatment centers if each member of the surgical or medical staff is a physician, dentist or podiatrist currently licensed to practice in Missouri. Also, if the applicant performs surgical procedures, childbirths, cardiac catheterization or endoscopy, the applicant must also submit a working agreement with at least one hospital in the same community in which the ambulatory medical treatment center is located, and the agreement must provide that the surgical or medical staff makes himself of herself available to provide on-call services at the hospital on the same basis as other similarly credentialed practitioners. Alternatively, the applicant shall submit a copy of a current working agreement regarding emergency transfers and admittance of patients. This act also allows a non-metropolitan ambulatory medical treatment center to affiliate with a hospital outside the county if the distance by road is no greater than the distance between the ambulatory medical treatment center and a hospital in the same county. If hospitals and ambulatory medical treatment centers are unable to negotiate a working agreement, then they must enter into binding arbitration based on the American Arbitration Association (Section 197.215).

The regulations adopted by the Department of Health and Senior Services regarding ambulatory medical treatment centers must be consistent with Medicare or the joint commission on accreditation of health organizations participation and standards, which are developed by nationally recognized and accredited entities. The department will waive enforcement of new or additional construction, life safety and building code standards until after the ambulatory medical treatment center undergoes substantial renovation or replacement. Current construction and life safety standards for ambulatory surgical centers will continue to apply to facilities licensed on the effective date of the act. Further, the Department will not be required to lower its current standards for centers that are already in operation (Section 197.225).

Section 197.230 requires the department to conduct inspections of ambulatory medical treatment centers. The centers are to have the opportunity to use inspections from recognized accrediting

DESCRIPTION (continued)

organizations in lieu of state inspection and the department shall attempt to schedule inspections such that an ambulatory medical treatment center is not subject to more than one inspection in any twelve-month period. However, the department will not conduct inspections that duplicate certification or accreditation standards (Section 197.232).

By July 1, 2006, the State Board of Registration for the Healing Arts shall promulgate guidelines and standards for the performance of office-based surgery. By January 15, 2007, the Board shall present a report to the Governor and the General Assembly addressing patient safety, trends regarding office-based surgery, and recommendations for legislative action (Section 1).

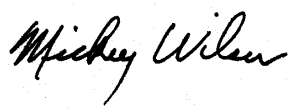
This proposal also authorizes the release of health care data to patient safety improvement organizations for use in improving the quality of health care delivery. Standards are established for data confidentiality and the use of the data in lawsuits (Section 2 through 5).

The proposal also creates a new Section, 375.939, which prohibits a health care provider, as defined in Section 376.1350, RSMo, from eliminating the need for or waiving insurance copayments. However, copayment restrictions will not supercede federal laws and the restriction on waivers of co-payments will apply to other coinsurance obligations.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Health and Senior Services
Department of Insurance
Department of Transportation
Missouri Consolidated Health Care Plan
Missouri Department of Conservation
Department of Social Services
Department of Mental Health
Secretary of State
State Treasurer's Office
Department of Economic Development



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