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Final Fiscal Note

Drafting Number: LLS 22-0316 Date: July 1, 2022
Prime Sponsors: Rep. Kennedy Bill Status: Signed into Law
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Bill Topic: SUNSET CONTINUE LICENSURE OF ACUPUNCTURISTS

- Summary of Fiscal Impact:
[X] State Revenue [X] TABOR Refund
[X] State Expenditure [] Local Government
[] State Transfer [] Statutory Public Entity

Sunset Bill. This bill continues the regulation of acupuncturists in the Department of Regulatory Agencies, which is scheduled to repeal on September 1, 2022. State fiscal impacts include both a one-time workload increase and an ongoing revenue increase from changes to the program under the bill, as well as the continuation of the program's current revenue and expenditures. The program is continued through September 1, 2033.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under HB 22-1263^1

Table with 3 columns: Category, Budget Year FY 2022-23, and Out Year FY 2023-24. Rows include New Impacts (Revenue, Expenditures, Other Budget Impacts) and Continuing Impacts (Revenue, Expenditures, Other Budget Impacts).

^1 Table 1 shows the new impacts resulting from changes to the program under the bill, and the continuing impacts from extending the program beyond its current repeal date. Because the bill continues a program without making any changes, there are no new impacts. The continuing program impacts will end if the bill is not passed and the program is allowed to repeal.

Summary of Legislation

The bill continues the regulation of acupuncturists in the Department of Regulatory Agencies (DORA) until September 1, 2033. The program is currently set to repeal on September 1, 2022. In addition, the bill:

- allows DORA to issue a fine for disciplinary actions;
- removes district court jurisdiction of final actions and puts it in the jurisdiction of the court of appeals;
- authorizes acupuncturists to supervise unlicensed acupuncture aids in doing specific tasks, as determined by the director of DORA;
- clarifies what the practice of acupuncture includes;
- requires acupuncturists to have a written plan on how to ensure security of patient records;
- requires acupuncturists to pass an exam to get a license;
- updates the grounds for discipline regarding alcohol or drug use to align with other regulated professions;
- adds failure to respond to a complaint to the grounds for discipline; and
- requires the director of DORA to promulgate rules about the use of telehealth in acupuncture.

Background

For more information about the sunset recommendations for the regulation of acupuncturists, please visit: <https://drive.google.com/file/d/15zeCRAyNzoMOX1xio9z1983oqBaRtI8/view>.

Continuing Program Impacts

Based on the department's FY 2020-21 revenue and expenditures, DORA is expected to have revenue of \$147,615 and expenditures of \$70,440 to administer the regulation of acupuncturists. If this bill is enacted, current revenue and expenditures will continue for the program starting in FY 2023-24. This continuing revenue is subject to the state TABOR limit. If this bill is not enacted, the program will end on September 1, 2023, following a wind-down period, and state revenue and expenditures will decrease starting in FY 2022-23 by the amounts shown in Table 1, above.

State Revenue

Starting in FY 2022-23, state revenue to the Professions and Occupation Cash Fund in DORA will increase to the extent there are additional fines levied against acupuncturists for disciplinary actions. Because a fine is one example of a disciplinary action, it is unknown what the exact increase in revenue will be. However, according to the 2021 sunset report, from FY 2015-16 through FY 2019-20, there were 21 disciplinary actions or about 4 per year. Therefore, the fiscal note assumes that increase in revenue will be minimal. Revenue from fine revenue is subject to the state's TABOR limit.

State Expenditures

In FY 2022-23 only, the bill will increase workload in DORA to update program rules and conduct outreach. The fiscal note assumes that this work will be minimal and can be absorbed within existing appropriations.

Effective Date

The bill was signed into law by the Governor on May 26, 2022, and takes effect on September 1, 2022, assuming no referendum petition is filed.

State and Local Government Contacts

Information Technology

Law

Regulatory Agencies