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FISCAL IMPACT STATEMENT

LS 7327

BILL NUMBER: SB 363

NOTE PREPARED: Apr 19, 2011

BILL AMENDED: Apr 18, 2011

SUBJECT: Criminal Background Checks of Health Professionals.

FIRST AUTHOR: Sen. Miller

FIRST SPONSOR: Rep. Frizzell

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- (1) Requires the Indiana State Police Department (ISP) to permanently retain a health professional applicant's fingerprints and store the fingerprints separately from fingerprints collected for the state central repository for criminal data.
- (2) Adds certain crimes for which the Department of Education must revoke the license of a school employee.
- (3) Requires applicants for certain licensed health professions to submit to a national criminal history background check.
- (4) Requires the ISP to release the results of the national criminal history background check to the Indiana Professional Licensing Agency (PLA).
- (5) Authorizes a licensing board to suspend, deny, or revoke a license if the applicant or license holder has been convicted of specified offenses.
- (6) Requires the ISP and the PLA to enter into a memorandum of understanding to provide data exchange and data matching regarding licensees who are charged with or convicted of an offense.
- (7) Requires the personal information data exchanged to be kept confidential.
- (8) Allows the board of a regulated occupation to designate a person to act on behalf of the board to perform certain duties when seeking a cease and desist order.
- (9) Allows a pharmacist to administer an immunization for shingles (herpes zoster) to a group of individuals under a drug order, under a prescription, or according to a protocol approved by a physician if certain requirements are met.
- (10) Removes geographical locations that a supervising physician must be located within.
- (11) Allows the Medical Licensing Board to deny supervisory agreements. (Current law requires the Board

to approve supervisory agreements.)

(12) Removes certain limitations on physician assistants (PA) prescribing and dispensing certain drugs and controlled substances.

(13) Requires that the supervising physician or physician designee review specified percentages of PA patient encounters within 72 hours based on the PA's years of practice.

(14) Allows for electronic prescriptions from a practitioner for certain drugs.

Effective Date: (Revised) Upon Passage; July 1, 2011.

Explanation of State Expenditures: *Cease and Desist Orders:* This provision would reduce the need for professional boards to call additional meetings to (1) file a complaint for a cease and desist motion to the Attorney General and (2) call on the person(s) affected by the professional practitioner in question to appear for a hearing to “show cause” as to why a practitioner should no longer be licensed, certified, or registered. If fewer professional board meetings occur as a result of this provision, state expenditures on professional board per diem and duty reimbursement may be reduced.

(Revised) *Physician’s Assistants:* The Medical Licensing Board (MLB) would no longer be required to approve or reject applicants’ requests to change or add a supervising physician. This provision would allow the MLB to devote its resources to other business. However, a PA would continue to be required to practice with the supervision of a physician. [Note: As of September 15, 2010, there were 1,320 active physician assistant licenses with the MLB.]

Explanation of State Revenues: (Revised) *Summary:* This bill is expected to increase state revenue to the General Fund by approximately \$446,000 per year.

The bill is also expected to increase the workload of the ISP to maintain fingerprint information separate from fingerprints received from the Department of Correction (DOC) and to operate under a memorandum of understanding with the Professional Licensing Agency (PLA).

Additionally, the workload of state professional licensing regulating bodies (i.e., State Board of Dentistry, State Board of Nursing, Medical Licensing Board, and others) is expected to increase to (1) *deny* the applications for licensure or certificate of individuals who are convicted of specified disqualifying offenses and (2) suspend and revoke licenses or certificates of individuals who are convicted of *new* disqualifying offenses added by the bill (if these offenses are determined to affect the individual's ability to perform professional duties). Increases in workload are indeterminable.

(Revised) **Additional Information:**

Currently, for every national criminal history background check requested, \$15 is forwarded to the General Fund. For FY 2010, the General Fund received approximately \$900,000 from fees for national criminal history background checks. This equates to approximately 60,000 requests for national criminal history information.

The PLA reports there are 198,000 individuals who are currently licensed or certified in one of the professions specified in the bill. According to the PLA, approximately 10% of all applications for licensure or certification are new applications. Given this information, the number of requests for licensure and certification (along with requests for national criminal history information) will increase by approximately

19,800 requests annually. These new requests for licensure and certification will increase revenue to the General Fund by approximately \$297,000 per year.

Currently, individuals applying for licensure or certification in a profession defined in the bill are only required to self-report convictions for a disqualifying offense specified in current law and added by the bill. The bill will allow a board, commission, or committee to conduct a random audit and require applicants for license or certificate renewal to obtain a national criminal history background check. The actual number of individuals that will be audited and required to obtain a national criminal history background check is unknown. However, assuming 5% of all licensed or certified individuals (198,000) are selected for audit and thereby required to obtain a national criminal history background check, 9,900 individuals will request a national criminal history background check annually. This is expected to increase revenue to the General Fund by approximately \$149,000 per year.

Explanation of Local Expenditures: This bill will increase the workload of probation officers to also determine if a convicted individual holds a license or certification in a profession regulated by the PLA as a part of their presentence investigation. Increases in workload are indeterminable.

(Revised) The bill would also expand the list of crimes for which a prosecuting attorney or school superintendent would be required to provide notice of the conviction to the State Superintendent of Public Instruction. The Department of Education would then be required to hold a hearing on the matter and permanently revoke the teaching license of the teacher convicted of the felony. The impact on the state would depend on the number of hearings held each year, but the fiscal impact would probably be minor.

Explanation of Local Revenues:

State Agencies Affected: ISP, PLA, other state professional licensing regulating bodies, Department of Education, Medical Licensing Board, Physician Assistant Committee.

Local Agencies Affected: Local courts, local school corporations.

Information Sources: *Indiana Handbook of Taxes, Revenues, and Appropriations*; Marty Allain, Professional Licensing Agency, 317-234-1987.

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