

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 1528

PRINTER'S NO. 2213

AMOUNT

\$4,000 - \$6,000 Annually

FUND

General Fund Restricted Account –
Bureau of Professional & Occupational Affairs

DATE INTRODUCED

May 23, 2012

PRIME SPONSOR

Senator Greenleaf

HISTORY OF BILL

Referred to CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, May 23, 2012

Reported as committed, June 5, 2012

First consideration, June 5, 2012

Second consideration, June 6, 2012

Re-referred to APPROPRIATIONS, June 6, 2012

Re-reported as committed, June 11, 2012

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 1528 amends the Occupational Therapy Practice Act to require licensed occupational therapists to acquire liability insurance, to create an impaired professionals program, and to make other changes.

The bill requires occupational therapists to obtain professional liability insurance by the next biennial period for license renewal following the effective date of the bill. It requires license suspension for failure to obtain the required insurance. The bill requires the Board to accept as evidence of coverage, 1) self-insurance, 2) personally purchased professional liability insurance, 3) professional coverage provided by an employer, or 4) similar coverage accepted by the Board.

The bill specifies the minimum amount of insurance accepted is \$1,000,000 per occurrence. Proof of insurance may be a copy of a letter from the applicant's professional liability insurance carrier or the applicant may certify that he is covered by his employer in the amount required. Certification of insurance must be provided to the Board within 30 days of employment. The Board must adopt regulations established by the Insurance Commissioner for self-insurance.

The bill requires a Board member who fails to attend three meetings in 18 months to forfeit his seat unless excused due to illness or death of a family member.

SENATE APPROPRIATIONS COMMITTEE

FISCAL NOTE

The bill authorizes a licensed certified registered nurse practitioner or a licensed physician assistant to refer an individual to an occupational therapist.

The bill establishes additional continued competency requirements for occupational therapy assistants.

The board is authorized to levy a civil penalty for violations of a subpoena or similar authority of the Board.

The Board is required to appoint a professional consultant with education and experience in the identification, treatment and rehabilitation of persons with physical or mental impairments. The consultant shall be accountable to the Board and act as a liaison with treatment programs for impaired professionals.

The Board is authorized to defer or dismiss corrective actions for an impaired professional if the licensee is satisfactorily progressing in an approved treatment program. The exception shall be if the person is convicted of a drug-related offense.

The impaired occupational therapist may allow his records of treatment to be disclosed to the treatment liaison. Failure to enter into such agreement shall disqualify the professional from the program and shall activate immediate investigation and disciplinary proceedings. Corrective actions may be stayed for the length of time the professional remains in treatment.

Civil immunity is granted to a provider who makes a disclosure pursuant to the agreement. Other health care professionals with knowledge of an occupational therapist's disease must report the matter to the Board. The bill grants immunity from civil or criminal liability for the report. A fine not to exceed \$1,000 is imposed for failure to make such a report.

The act takes effect in 60 days.

FISCAL IMPACT:

The Department estimates the requirement to create and implement an impaired professional program for occupational therapists will cost about \$4,000 to \$6,000 per year.

There is the possibility of a very slight increase in the Department's legal costs for implementing the provisions requiring disciplinary action against a hospital or facility, peer or colleague who fails to report an impaired occupational therapist who is not getting treatment.

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

Finally, the Department will absorb additional workload necessary to establish the continued competency requirements imposed by the bill on occupational therapy assistants through regulation. The promulgation of regulations to implement the professional liability insurance requirements will also be required. In the year immediately following the first complete biennial period in which the occupational therapy assistants are required to participate in continuing competency activities, the Department will experience increased administrative and legal duties as it does selective audits of occupational therapy assistants to assure compliance with the new requirement and subsequent potential disciplinary proceedings on those who did not comply. Also, the Department will experience an increased administrative and legal workload from those occupational therapists who fail to provide proof of professional liability insurance and require suspension and/or lifting of suspension proceedings by the Board.