COMMITTEE REPORT

February 20, 2020

**H. 4713**

Introduced by Reps. Gilliard and Robinson

S. Printed 2/20/20--H.

Read the first time January 14, 2020.

**THE COMMITTEE ON MEDICAL,**

**MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

To whom was referred a Bill (H. 4713) to amend the Code of Laws of South Carolina, 1976, by adding Sections 40‑47‑39 and 44‑7‑266 so as to require office‑based, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the encacting words and inserting:

/ SECTION 1. Article 3, Chapter 7, Title 44 of the 1976 Code is amended by adding:

“Section 44‑7‑266. (A) As a condition of licensure pursuant to this article, a hospital, nursing home, residential treatment facility for children and adolescents, community residential care facility, or facility where abortions are performed shall provide as part of its application to the department a plan to provide for the appropriate level of security to ensure the safety and well‑being of patients, staff, and visitors, which must include a risk assessment of potential areas or situations that may cause harm or where an incident may occur specific to the hospital, nursing home, residential treatment facility for children and adolescents, community residential care facility, or facility where abortions are performed that is applying for licensure.

(B)(1) In order to ensure the safety and well‑being of patients, staff, and visitors, a hospital, nursing home, residential treatment facility for children and adolescents, community residential care facility, or facility where abortions are performed licensed pursuant to the provisions of this article shall conduct an annual risk assessment to identify potential areas or situations that may cause harm or where an incident may occur. The risk assessment must include consultation with local law enforcement and local public safety officials about any trends in violent crime or other threats to public safety in the workplace.

(2) Based upon the finding of the assessment, the hospital, nursing home, residential treatment facility for children and adolescents, community residential care facility, or facility where abortions are performed shall develop and implement a plan to provide for the appropriate level of security necessary and to collect data on incidents occurring in the workplace. Any physician or staff working in the hospital, nursing home, residential treatment facility for children and adolescents, community residential care facility, or facility where abortions are performed must be offered a meaningful opportunity to participate in the risk assessment and planning process.

(C) A violation of a provision of this section may be grounds for the denial, suspension, or revocation of the license of a hospital, nursing home, residential treatment facility for children and adolescents, community residential care facility, or facility where abortions are performed pursuant to Section 44‑7‑320, if after receipt of written notice from the department of the violation, the hospital, nursing home, residential treatment facility for children and adolescents, community residential care facility, or facility where abortions are performed fails to demonstrate compliance with the requirements of the provision within a reasonable period of time.”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

LEON HOWARD for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Updated for Revised Information on January 29, 2020**

**Introduced on January 14, 2020**

**State Expenditure**

This bill requires facilities rendering medical, nursing, and other health care to provide a security plan to ensure the safety and well-being of their patients, staff, and visitors. This security plan is a condition of licensure and must also include a risk assessment. In addition, facilities must conduct an annual risk assessment which must include consultation with local law enforcement and local public safety officials. Denial, suspension, or revocation of a facility’s license may result from a violation of this provision.

In addition, this bill requires office-based practices to conduct an annual risk assessment which must include consultation with local law enforcement and local public safety officials. These practices must use the risk assessment to develop a plan to provide an appropriate level of security.

**Department of Health and Environmental Control.** DHEC is responsible for the licensing of health care facilities. The agency indicates that the requirements of this bill will be enforced using current department staff and resources. Therefore, this bill will have no expenditure impact on the agency.

**Department of Alcohol and Other Drug Abuse Services.** DAODAS contracts with counties to provide services at the local level, but does not own any facilities or office-based practices. Therefore, this bill will have no expenditure impact on the agency.

**Department of Mental Health.** All community mental health centers administered by DMH are accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF). Risk assessment is included as part of the process for accreditation. Therefore, this bill will have no expenditure impact on DMH because it does not create additional duties or responsibilities.

**Department of Labor, Licensing and Regulation.** While DHEC is responsible for licensing healthcare facilities, administrators of nursing homes and community residential care facilities are licensed by LTHC, which is under the administration of LLR. DHEC may refer an initial complaint to LTHC for an investigation to determine if the administrator in charge of the facility has violated LTHC statutes and regulations. In addition, physicians in office-based practices are regulated by BME, which is also under the administration of LLR.

Any additional complaints, investigations, and disciplinary proceedings resulting from this bill will require additional board meetings for both BME and LTHC. Each of the thirteen BME members and the ten LTHC members receives a per diem of $35 and mileage reimbursement of 57.5 cents per mile. In addition, board meetings require the presence of a court reporter, which averages $2,156 per meeting. This bill will increase other funds expenditures of LLR by at least $2,611 for each additional meeting of BME and $2,506 for each additional meeting of LTHC. The boards are unable to estimate the number of additional meetings that will be required. Therefore, the expenditure impact due to additional board meetings is undetermined.

*This section of the fiscal impact statement has been updated to clarify that the Board of Medical Examiners (BME), which is under the administration of LLR, regulates physicians and not physician offices.*

**State Revenue**

This bill requires office-based practices to conduct an annual risk assessment which must include consultation with local law enforcement and local public safety officials, and to develop a plan to provide an appropriate level of security. Violations of this provision will result in civil penalties of up to $1,000 for the first violation and up to $5,000 for subsequent violations. Violations are imposed by BME and fines are paid to the board, which is under the administration of LLR. The board is unable to estimate the number of violations they will handle. Therefore, the increase in other funds revenue for LLR due to these fines is undetermined.

In addition, the Board of Medical Examiners falls under the Division of Professional and Occupational Licensing. Pursuant to Proviso 81.3 of the FY 2019-20 Appropriations Act, LLR is required to remit annually to the General Fund an amount equal to 10 percent of board expenditures. This will increase general fund revenue by at least $261 for each additional meeting of BME and $250 for each additional meeting of LTHC. Because the boards are unable to determine the number of additional meetings that will be required, the total increase in general fund revenue is undetermined. The agency anticipates that the increase in general fund revenue will be minimal.

**Local Expenditure**

This bill requires facilities and office-based practices to consult with local law enforcement and public safety officials concerning trends in violent crime or other threats to public safety in the workplace. All forty-six counties and the Municipal Association of South Carolina were surveyed to determine the local expenditure impact of this bill. Saluda county reported that they have no county administered hospitals and all physicians’ offices located in the county are under the administration of a hospital located in another county. Lancaster county reported that the requirements of this bill would be handled with the use of existing staff and resources.

DAODAS reported that local facilities providing alcohol and drug abuse services undergo national accreditation that requires them to have a plan in place for security and safety. In addition, facilities must conduct annual risk assessments that include consultation with local law enforcement and public safety officials. Therefore, this bill would have no local expenditure

**Updated for Additional Agency Response on January 3, 2020**

**Prefiled on November 20, 2019**

**State Expenditure**

This bill requires facilities rendering medical, nursing, and other health care to provide a security plan to ensure the safety and well-being of their patients, staff, and visitors. This security plan is a condition of licensure and must also include a risk assessment. In addition, facilities must conduct an annual risk assessment which must include consultation with local law enforcement and local public safety officials. Denial, suspension, or revocation of a facility’s license may result from a violation of this provision.

In addition, this bill requires office-based practices to conduct an annual risk assessment which must include consultation with local law enforcement and local public safety officials. These practices must use the risk assessment to develop a plan to provide an appropriate level of security.

This section of the fiscal impact statement has been updated to include responses by LLR, DAODAS, and DMH.

**Department of Health and Environmental Control.** DHEC is responsible for the licensing of health care facilities. The agency indicates that the requirements of this bill will be enforced using current department staff and resources. Therefore, this bill will have no expenditure impact on the agency.

**Department of Alcohol and Other Drug Abuse Services.** DAODAS contracts with counties to provide services at the local level, but does not own any facilities or office-based practices. Therefore, this bill will have no expenditure impact on the agency.

**Department of Mental Health.** All community mental health centers administered by DMH are accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF). Risk assessment is included as part of the process for accreditation. Therefore, this bill will have no expenditure impact on DMH because it does not create additional duties or responsibilities.

**Department of Labor, Licensing and Regulation.** While DHEC is responsible for licensing healthcare facilities, administrators of nursing homes and community residential care facilities are licensed by LTHC, which is under the administration of LLR. DHEC may refer an initial complaint to LTHC for an investigation to determine if the administrator in charge of the facility has violated LTHC statutes and regulations. In addition, office-based practices are regulated by BME, which is also under the administration of LLR.

Any additional complaints, investigations, and disciplinary proceedings resulting from this bill will require additional board meetings for both BME and LTHC. Each of the thirteen BME members and the ten LTHC members receives a per diem of $35 and mileage reimbursement of 57.5 cents per mile. In addition, board meetings require the presence of a court reporter, which averages $2,156 per meeting. This bill will increase other funds expenditures of LLR by at least $2,611 for each additional meeting of BME and $2,506 for each additional meeting of LTHC. The boards are unable to estimate the number of additional meetings that will be required. Therefore, the expenditure impact due to additional board meetings is undetermined.

**State Revenue**

This bill requires office-based practices to conduct an annual risk assessment which must include consultation with local law enforcement and local public safety officials, and to develop a plan to provide an appropriate level of security. Violations of this provision will result in civil penalties of up to $1,000 for the first violation and up to $5,000 for subsequent violations. Violations are imposed by BME and fines are paid to the board, which is under the administration of LLR. The board is unable to estimate the number of violations they will handle. Therefore, the increase in other funds revenue for LLR due to these fines is undetermined.

In addition, the Board of Medical Examiners falls under the Division of Professional and Occupational Licensing. Pursuant to Proviso 81.3 of the FY 2019-20 Appropriations Act, LLR is required to remit annually to the General Fund an amount equal to 10 percent of board expenditures. This will increase general fund revenue by at least $261 for each additional meeting of BME and $250 for each additional meeting of LTHC. Because the boards are unable to determine the number of additional meetings that will be required, the total increase in general fund revenue is undetermined. The agency anticipates that the increase in general fund revenue will be minimal.

This section of the fiscal impact statement has been updated to include responses by LLR.

**Local Expenditure**

This bill requires facilities and office-based practices to consult with local law enforcement and public safety officials concerning trends in violent crime or other threats to public safety in the workplace. All forty-six counties and the Municipal Association of South Carolina were surveyed to determine the local expenditure impact of this bill. Saluda county reported that they have no county administered hospitals and all physicians’ offices located in the county are under the administration of a hospital located in another county. Lancaster county reported that the requirements of this bill would be handled with the use of existing staff and resources.

DAODAS reported that local facilities providing alcohol and drug abuse services undergo national accreditation that requires them to have a plan in place for security and safety. In addition, facilities must conduct annual risk assessments that include consultation with local law enforcement and public safety officials. Therefore, this bill would have no local expenditure impact on drug and alcohol abuse facilities.

This section of the fiscal impact statement has been updated to include responses by DAODAS.

**Prefiled on November 20, 2019**

**State Expenditure**

**Department of Health and Environmental Control.** This bill requires facilities rendering medical, nursing, and other health care to provide a security plan to ensure the safety and well-being of their patients, staff, and visitors. This security plan is a condition of licensure and must also include a risk assessment. In addition, facilities must conduct an annual risk assessment which must include consultation with local law enforcement and local public safety officials. Denial, suspension, or revocation of a facility’s license may result from a violation of this provision.

DHEC indicates that the requirements of this bill will be enforced using current department staff and resources. Therefore, this bill will have no expenditure impact on the agency.

**Department of Labor, Licensing and Regulation.** This bill requires office-based practices to conduct an annual risk assessment which must include consultation with local law enforcement and local public safety officials. In addition, office-based practices must use the risk assessment to develop a plan to provide an appropriate level of security. Violations will be handled by the Board of Medical Examiners, which is under the regulation of LLR.

The expenditure impact of this bill is pending, contingent upon a response from LLR.

**State Revenue**

This bill requires office-based practices to conduct an annual risk assessment which must include consultation with local law enforcement and local public safety officials, and to develop a plan to provide an appropriate level of security. Violations of this provision will result in civil penalties up to $1,000 for the first violation and up to $5,000 for subsequent violations. Violations are imposed by and paid to the Board of Medical Examiners. The revenue impact of this portion of the bill is pending, contingent upon a response from LLR.

In addition, the Board of Medical Examiners falls under the Division of Professional and Occupational Licensing. Pursuant to Proviso 81.3 of the FY 2019-20 Appropriations Act, LLR is required to remit annually to the General Fund an amount equal to 10 percent of expenditures. The revenue impact of this of the bill is pending, contingent upon a response from LLR.

**Local Expenditure**

This bill requires facilities and office-based practices to consult with local law enforcement and public safety officials concerning trends in violent crime or other threats to public safety in the workplace. All forty-six counties and the Municipal Association of South Carolina were surveyed to determine the local expenditure impact of this bill. Saluda county reported that they have no county administered hospitals and all physicians’ offices located in the county are under the administration of a hospital located in another county. Lancaster county reported that the requirements of this bill would be handled with the use of existing staff and resources. Therefore, this bill would have no local expenditure impact. This fiscal impact will be updated as more responses are received.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTIONS 40‑47‑39 AND 44‑7‑266 SO AS TO REQUIRE OFFICE‑BASED PRACTICES AND HEALTH CARE FACILITIES TO CONDUCT AN ANNUAL RISK ASSESSMENT TO IDENTIFY POTENTIAL THREATS TO THE HEALTH AND SAFETY OF PATIENTS, STAFF, AND VISITORS, AND TO IMPLEMENT PLANS TO PROVIDE APPROPRIATE SECURITY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 47, Title 40 of the 1976 Code is amended by adding:

“Section 40‑47‑39. (A)(1) In order to ensure the safety and well‑being of patients, staff, and visitors, the owner of an office‑based practice shall conduct an annual risk assessment to identify potential areas or situations that may cause harm or where an incident may occur. The risk assessment must include consultation with local law enforcement and local public safety officials about any trends in violent crime or other threats to public safety in the workplace.

(2) Based upon the finding of the assessment, the owner shall develop and implement a plan to provide for the appropriate level of security necessary and to collect data on incidents occurring in the workplace. Any physician or staff working in the office‑based practice must be offered a meaningful opportunity by the owner to participate in the risk assessment and planning process.

(B) An owner of an office‑based practice that violates a provision of this section is subject to a civil penalty of not more than one thousand dollars for a first violation or five thousand dollars for a subsequent violation, to be imposed and collected by the board, if after receipt of written notice from the board of the violation, the owner fails to demonstrate compliance with the requirements of the provision within a reasonable period of time.

(C) For purposes of this section, ‘office‑based practice’ means a physician’s office or location other than a hospital or facility licensed by the Department of Health and Environmental Control.”

SECTION 2. Article 3, Chapter 7, Title 44 of the 1976 Code is amended by adding:

“Section 44‑7‑266. (A) As a condition of licensure pursuant to this article, a facility shall provide as part of its application to the department a plan to provide for the appropriate level of security to ensure the safety and well‑being of patients, staff, and visitors, which must include a risk assessment of potential areas or situations that may cause harm or where an incident may occur specific to the facility applying for licensure.

(B)(1) In order to ensure the safety and well‑being of patients, staff, and visitors, a facility licensed pursuant to the provisions of this article shall conduct an annual risk assessment to identify potential areas or situations that may cause harm or where an incident may occur. The risk assessment must include consultation with local law enforcement and local public safety officials about any trends in violent crime or other threats to public safety in the workplace.

(2) Based upon the finding of the assessment, the facility shall develop and implement a plan to provide for the appropriate level of security necessary and to collect data on incidents occurring in the workplace. Any physician or staff working in the facility must be offered a meaningful opportunity to participate in the risk assessment and planning process.

(C) A violation of a provision of this section may be grounds for the denial, suspension, or revocation of a facility’s license pursuant to Section 44‑7‑320, if after receipt of written notice from the department of the violation, the facility fails to demonstrate compliance with the requirements of the provision within a reasonable period of time.”

SECTION 3. This act takes effect upon approval by the Governor.

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