

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: SB523

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: McDougle

3. Committee: Education and Health

4. Title: Certificate of public need; exception; physician-owned ambulatory surgery center.

5. Summary: Exempts specialized centers or clinics or that portion of a doctor's office established for the provision of ambulatory or outpatient ophthalmic, urologic, or endoscopic surgery from the definition of medical care facility and creates a new permitting process for projects involving specialized centers or clinics or that portion of a doctor's office established for the provision of ophthalmic, urologic, or endoscopic surgery and services, subject to a civil penalty for failure or refusal to comply with certain conditions of the permit.

6. Budget Amendment Necessary: See item 8.

7. Fiscal Impact Estimates: Preliminary, see item 8.

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2021	(\$21,520)	02601
2022	(\$21,520)	02601
2023	\$8,781	02601
2024	\$8,781	02601
2025	\$8,781	02601
2026	\$8,781	02601

7b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2021	(\$21,520)	02601
2022	(\$21,520)	02601
2023	\$8,781	02601
2024	\$8,781	02601
2025	\$8,781	02601
2026	\$8,781	02601

8. Fiscal Implications:

Virginia Department of Health: It is estimated that the average number of projects each year that would be removed from COPN review would be 1.4, based on historical trends over the last five years. The average application fee for these projects is \$15,178 per application. Amending the definition of “medical care facility” to exclude certain projects from COPN review will reduce the annual revenue for COPN by an average of \$21,520, which the agency can absorb within existing resources. However, the loss of revenue will not reduce the need to maintain current staffing levels in order to maintain operations.

The administration of the COPN program is just one component within the Office of Licensure and Certification (OLC). The OLC acts as the agent for the Virginia Department of Health (VDH) in administering five state licensing programs such as nursing facilities, home care organizations and hospice programs. In addition, the OLC administers the state’s certification and registration programs for Managed Care Health Insurance Plans licensees (MCHIPs) and Private Review Agents (PRAs) and is the state survey agency for Medicare and Medicaid. The most visible activities conducted by the OLC are its inspection programs, which are used to satisfy both state licensure and Medicare/Medicaid requirements. In addition to regulatory compliance inspections, the OLC investigates consumer complaints regarding the quality of health care services received. With the reduction in fee revenue, VDH indicates that either current staffing levels necessary to perform other functions within OLC and COPN would have to be reduced or general fund would need to be provided to support remaining activities. A third option would be to raise fees on remaining activities, although the time frame to do so may be lengthy. The expenditure table in section 7a assumes the agency absorbs the loss of fee revenues and takes no position on the agency's decision whether or not to effect staff reductions.

Additionally, the bill shifts to a permitting process regulated by the Board of Health. The bill specifies that the Board shall adopt regulations that include quality of care standards for permit holders, establish requirements for monitoring compliance with quality care standards, procedures for issuance and revocation of permits, and promulgate permit fees to support the program. However, the bill would not take effect until July 1, 2020, and any new regulations would not be effective for approximately 18 months from then. Therefore, permit fees are expected to replace any lost COPN application fee revenue by the end of FY2022. VDH has stated that part of a wage position may be necessary for the specific conditions and requirements of the permitting program, however the revenues generated from the permitting process should be sufficient to cover a wage position estimated at an annual cost of \$30,301, which includes salary, fringe, and other VITA costs.

VDH can absorb the loss of revenue until the permitting process is established.

Department of Medical Assistance Services: While it is assumed that legislation impacting Virginia’s Certificate of Public Need (COPN) law may have fiscal implications for the Department of Medical Assistance Services (DMAS), as one of the largest purchasers of

health care services in Virginia, there is insufficient data to provide a definitive estimate of the cost impact of most proposed COPN legislation. Under any scenario, it is unlikely that most COPN changes would have a direct fiscal impact on Medicaid in the biennium in which it is proposed due to the time needed for implementation and the delayed recognition of costs in Medicaid payment rates. Any significant costs are not likely to occur for three to five years and, even then, such costs would be difficult to estimate based on the unknowns associated with multiple COPN process and coverage changes and the rapidly evolving nature of the healthcare system.

9. Specific Agency or Political Subdivisions Affected: The Virginia Department of Health and the Department of Medical Assistance Services.

10. Technical Amendment Necessary: No.

11. Other Comments: None.