

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: SB873

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: DeSteph

3. Committee: General Laws and Technology

4. Title: Department of Professional and Occupational Regulation; regulatory boards; expungement.

5. Summary: Authorizes any regulatory board within the Department of Professional and Occupational Regulation to expunge the disciplinary record of a regulant, provided that (i) the regulant's written application for expungement is made at least five years from the date of final disposition of the disciplinary record, (ii) the disciplinary record is the only disciplinary record that the regulant has with a regulatory board, (iii) the regulant is not the subject of an active investigation related to professional or occupational conduct, (iv) the regulant is not in a current disciplinary status and any fees or fines assessed have been paid in full, and (v) the regulant has not had a disciplinary record previously expunged by the regulatory board. The bill defines "expungement" as the removal of a disciplinary record by (a) permanently sealing the affected record from public access, (b) deeming the proceedings to which the affected record refers as not having occurred, and (c) affording the affected party the right to represent that no record exists regarding the subject matter of the affected record. Under the bill, a regulatory board may use a previous discipline for any regulatory purpose or release records of a previous discipline upon request from law enforcement or any other governmental body as permitted by law.

6. Budget Amendment Necessary: Yes, Item 127.

7. Fiscal Impact Estimates: Preliminary. See Item 8.

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2020	0	0	n/a
2021	\$166,296	1.5	NGF
2022	\$156,404	1.5	NGF
2023	\$156,404	1.5	NGF
2024	\$156,404	1.5	NGF
2025	\$156,404	1.5	NGF
2026	\$156,404	1.5	NGF

8. Fiscal Implications: This bill increases the administrative responsibilities of the Department of Professional and Occupational Regulation (DPOR) by authorizing any regulatory board within DPOR to expunge certain disciplinary records. Current DPOR staff can absorb the

additional tasks of reviewing and evaluating expungement applications and presenting such applications to the regulatory board for approval or denial.

However, DPOR indicates that it cannot absorb the additional administrative responsibilities associated with the removal of all of the records of the expunged disciplinary cases and maintenance of the expunged records in a separate information system for future reference in subsequent expungement application evaluations. This bill would result in an ongoing need to maintain a parallel information management system with dramatically different data management requirements as well as FOIA response issues. The legal issues associated with the system would involve ongoing oversight of the system.

According to DPOR, the staff in its Information Management section are at capacity. One full-time classified general administrative coordinator position and one part-time wage records specialist would be needed to establish and manage the parallel information management storage/disclosure system, ensure thorough removal of all records of expunged cases, and provide clerical support for the information management system. The total cost of salary, wages, and benefits for the two positions, based on the mid-point for the band 4 salary range and current wage employees' hourly rate, is expected to be \$119,696 in FY2021 (assuming 23 pay periods) and \$123,804 annually beginning in FY 2022. This is a recurring cost that will continue into future years.

A budget amendment is necessary for appropriation and positions. Language in Chapter 854 (the 2019 Appropriations Act) and continued in HB/SB30, as introduced, restricts the use of fund balances to offset the future costs of restructuring DPOR's organization, including additional staffing needs and the replacement or upgrade of DPOR's information technology systems requirements. DPOR's current vacancies are assigned to specific job duties/job roles necessary for the restructuring of its organization.

In FY2021, DPOR will need to purchase furniture and equipment for the new positions at an estimated cost of \$14,000. This is a one-time expenditure that will not continue into future years. Other operating costs beginning in FY2021 and recurring in future years include telephone, employee development, computer operating support, and supplies. These costs are estimated at \$32,600 each year. The cost of the information management storage/disclosure system is indeterminate at this time.

In accordance with the provisions of § 54.1-113 (Callahan Act) of the Code of Virginia, licensing fees are established at rates adequate to cover a program's operating costs and a proportionate share of agency support costs. The regulatory boards' current cash and revenue are expected to be sufficient for the next biennium to cover the increased costs associated with this legislation.

9. Specific Agency or Political Subdivisions Affected: Department of Professional and Occupational Regulation.

10. Technical Amendment Necessary: No.

11. Other Comments: None.