

Consolidated Fiscal Note

2023-2024 Legislative Session

HF4200 - 0 - Annual Adverse Health Event Report Continued

Chief Author: **Sandra Feist**
 Committee: **Health Finance And Policy**
 Date Completed: **3/4/2024 7:52:42 PM**
 Lead Agency: **Health Dept**
 Other Agencies:
 Labor and Industry Dept

| State Fiscal Impact | Yes | No |
|---------------------------|-----|----|
| Expenditures | X | |
| Fee/Departmental Earnings | X | |
| Tax Revenue | | X |
| Information Technology | | X |
| Local Fiscal Impact | | X |

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

| State Cost (Savings) | Biennium | | | Biennium | | |
|--------------------------------|----------------------|--------|--------|----------|--------|--------|
| | Dollars in Thousands | FY2023 | FY2024 | FY2025 | FY2026 | FY2027 |
| Labor and Industry Dept | | | | | | |
| General Fund | - | 7 | 7 | 7 | 7 | 7 |
| State Total | | | | | | |
| General Fund | - | 7 | 7 | 7 | 7 | 7 |
| Total | - | 7 | 7 | 7 | 7 | 7 |
| Biennial Total | | | 14 | | | 14 |

| Full Time Equivalent Positions (FTE) | Biennium | | | Biennium | |
|---|----------|--------|--------|----------|--------|
| | FY2023 | FY2024 | FY2025 | FY2026 | FY2027 |
| Labor and Industry Dept | | | | | |
| General Fund | - | .1 | .1 | .1 | .1 |
| Total | - | .1 | .1 | .1 | .1 |

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Shannon Zila **Date:** 3/4/2024 7:52:42 PM
Phone: 651-296-6053 **Email:** shannon.zila@lbo.mn.gov

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

| State Cost (Savings) = 1-2 | | Biennium | | | Biennium | |
|--|-----------------------|-----------------|---------------|---------------|-----------------|---------------|
| Dollars in Thousands | | FY2023 | FY2024 | FY2025 | FY2026 | FY2027 |
| Labor and Industry Dept | | | | | | |
| General Fund | - | 7 | 7 | 7 | 7 | 7 |
| Total | - | 7 | 7 | 7 | 7 | 7 |
| | Biennial Total | | 14 | | 14 | |
| 1 - Expenditures, Absorbed Costs*, Transfers Out* | | | | | | |
| Labor and Industry Dept | | | | | | |
| General Fund | - | 12 | 12 | 12 | 12 | 12 |
| Total | - | 12 | 12 | 12 | 12 | 12 |
| | Biennial Total | | 24 | | 24 | |
| 2 - Revenues, Transfers In* | | | | | | |
| Labor and Industry Dept | | | | | | |
| General Fund | - | 5 | 5 | 5 | 5 | 5 |
| Total | - | 5 | 5 | 5 | 5 | 5 |
| | Biennial Total | | 10 | | 10 | |

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 Date Completed: **3/4/2024 7:52:42 PM**
 Agency: **Health Dept**

| State Fiscal Impact | Yes | No |
|---------------------------|-----|----|
| Expenditures | | X |
| Fee/Departmental Earnings | | X |
| Tax Revenue | | X |
| Information Technology | | X |
| Local Fiscal Impact | | X |

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

| State Cost (Savings) | Biennium | | | Biennium | | |
|-----------------------|----------------------|--------|--------|----------|--------|--------|
| | Dollars in Thousands | FY2023 | FY2024 | FY2025 | FY2026 | FY2027 |
| Total | - | - | - | - | - | - |
| Biennial Total | | | - | | | - |

| Full Time Equivalent Positions (FTE) | Biennium | | | Biennium | | |
|--------------------------------------|----------|--------|--------|----------|--------|--------|
| | | FY2023 | FY2024 | FY2025 | FY2026 | FY2027 |
| Total | - | - | - | - | - | - |

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Shannon Zila **Date:** 3/1/2024 2:15:59 PM
Phone: 651-296-6053 **Email:** shannon.zila@lbo.mn.gov

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

| State Cost (Savings) = 1-2 | | Biennium | | | Biennium | |
|--|--------|----------|--------|--------|----------|---|
| Dollars in Thousands | FY2023 | FY2024 | FY2025 | FY2026 | FY2027 | |
| Total | - | - | - | - | - | - |
| Biennial Total | | | - | | | - |
| 1 - Expenditures, Absorbed Costs*, Transfers Out* | | | | | | |
| Total | - | - | - | - | - | - |
| Biennial Total | | | - | | | - |
| 2 - Revenues, Transfers In* | | | | | | |
| Total | - | - | - | - | - | - |
| Biennial Total | | | - | | | - |

Bill Description

Following the occurrence of an adverse health event, facilities must conduct a root cause analysis of the event. This bill requires reporting facilities to notify any individual whose conduct may be under review no less than three days in advance of any meeting or interview with the individual about an adverse health event.

MDH had previously been required to publish an annual report on adverse health events. The report expired under Minnesota Statutes, section 144.05, subdivision 7. This bill exempts the report from the provisions of Minnesota Statutes, section 144.05, subdivision 7, reinstating it and making the annual report permanent.

Assumptions

MDH is responsible for the full operation of the Adverse Health Events Reporting System. The system requires hospitals and licensed surgery centers to complete a root cause analysis whenever an adverse health event occurs. This bill changes the requirements for who the facility must notify about the root cause analysis and when that notification must occur. This does not change the workflow for MDH and would have no fiscal impact.

MDH currently releases the adverse health event data publicly on an annual basis. The reinstatement of the report does not significantly impact that workflow. MDH would incur a de minimus fiscal impact.

We assume that the amended language in M.S. 144.05, subd. 7d of the mandate to submit the list of reports that are set to expire to the legislature is part of current duties and has a de minimus fiscal impact.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact:

Agency Fiscal Note Coordinator Signature: Brendan Wright

Date: 3/1/2024 9:28:51 AM

Phone: 651-443-1415

Email: brendan.wright@state.mn.us

HF4200 - 0 - Annual Adverse Health Event Report Continued

Chief Author: **Sandra Feist**
 Committee: **Health Finance And Policy**
 Date Completed: **3/4/2024 7:52:42 PM**
 Agency: **Labor and Industry Dept**

| State Fiscal Impact | Yes | No |
|---------------------------|-----|----|
| Expenditures | X | |
| Fee/Departmental Earnings | X | |
| Tax Revenue | | X |
| Information Technology | | X |
| Local Fiscal Impact | | |
| | | X |

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

| State Cost (Savings) | Biennium | | | Biennium | | |
|-----------------------|----------------------|--------|--------|----------|--------|--------|
| | Dollars in Thousands | FY2023 | FY2024 | FY2025 | FY2026 | FY2027 |
| General Fund | - | 7 | 7 | 7 | 7 | 7 |
| Total | - | 7 | 7 | 7 | 7 | 7 |
| Biennial Total | | | 14 | | | 14 |

| Full Time Equivalent Positions (FTE) | Biennium | | | Biennium | |
|--------------------------------------|----------|--------|--------|----------|--------|
| | FY2023 | FY2024 | FY2025 | FY2026 | FY2027 |
| General Fund | - | .1 | .1 | .1 | .1 |
| Total | - | .1 | .1 | .1 | .1 |

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karl Palm **Date:** 3/4/2024 7:17:36 PM
Phone: 651-296-6055 **Email:** karl.palm@lbo.mn.gov

State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

| State Cost (Savings) = 1-2 | | Biennium | | | Biennium | |
|--|---|----------|-----------|-----------|-----------|-----------|
| Dollars in Thousands | | FY2023 | FY2024 | FY2025 | FY2026 | FY2027 |
| General Fund | - | 7 | 7 | 7 | 7 | 7 |
| Total | | - | 7 | 7 | 7 | 7 |
| Biennial Total | | | | 14 | | 14 |
| 1 - Expenditures, Absorbed Costs*, Transfers Out* | | | | | | |
| General Fund | - | 12 | 12 | 12 | 12 | 12 |
| Total | | - | 12 | 12 | 12 | 12 |
| Biennial Total | | | | 24 | | 24 |
| 2 - Revenues, Transfers In* | | | | | | |
| General Fund | - | 5 | 5 | 5 | 5 | 5 |
| Total | | - | 5 | 5 | 5 | 5 |
| Biennial Total | | | | 10 | | 10 |

Bill Description

Section 1 of the bill addresses department of health mandated reporting requirements and sections 2 and 3 of the bill amend adverse health care events reporting laws within the purview of the Department of Health.

Section 4 of the bill amends definitions in the nurses’ overtime law and applies these definitions to new proposed section 181.2751 (section 5). The bill adds definitions for “assignment,” “emergency medical condition,” “health care facility,” “patient,” and “patient care staff.”

Section 5 of the bill adds a new section to Minn. Stat. Ch. 181 (181.2751) to prohibit retaliation against patient care staff for 1) making a request to engage in a newly established process (subd. 2) outlining when patient care staff may decline to accept an additional patient assignment; or 2) failing to accept additional patient assignments when a certain process is met as outlined in subd. 2:

- Patient care staff notify the charge nurse or direct supervisor (if charge nurse not available) in writing that the patient care staff reasonably determined that the additional patient assignment may create an unnecessary danger to a patient’s life, health, or safety or may otherwise constitute a ground for disciplinary action.
 - o The written notification must include (1) the name of the requesting patient care staff, (2) the date and time of the request, (3) a brief explanation of why the patient care staff is requesting to decline the additional patient assignment.
- The charge nurse or supervisor must evaluate the relevant factors to assess and determine adequacy of resources and invoke any chain of command policy to meet patient care needs. Chain of command policies must be accessible to all workers.

If the staffing issue cannot be resolved, and the patient care staff who made the request reasonably determines that accepting an additional patient assignment may create an unnecessary danger to a patient’s life, health or safety, then the patient care staff may decline to accept the additional patient assignment.

Subd. 3 indicates this section applies to patient care staff employed by the state.

Subd. 4 says the rights of this section cannot be diminished by a collective bargaining agreement.

Subd. 5 says a patient care staff may be required to accept an additional patient assignment in an emergency or when an emergency medical condition has not been stabilized.

Subd.6 permits the Commissioner of Labor & Industry to enforce this section by issuing a compliance order under 177.27, subd 4. The commissioner may assess a fine of up to \$5,000 for each violation.

Subd. 7 relates to a nurse’s professional obligations and indicates it is not a violation of the Nurse Practice Act if a nurse fails to accept or declines to accept an additional patient assignment following the process outlined in the section and that the section does not allow discrimination against protected classes.

Assumptions

Currently the Labor Standards unit at DLI has authority to enforce anti-retaliation provisions found at Minn. Stat. 181.03, subd. 6, as well as in various Women’s Economic Security Act (WESA) provisions. Since adoption of a new case management system, data shows it is rare for someone to contact the Labor Standards unit at DLI with a retaliation complaint. However, Labor Standards staff have had at least five investigations over approximately the last year where potential retaliation was identified in the course of the investigation. Without more precise data at this time to estimate the exact number of retaliation complaints DLI may receive as a result of this bill, DLI estimates approximately 10 retaliation complaints annually from patient care staff for failing to accept additional patient assignments.

Outreach and education to employees and employers on rights and responsibilities related to this bill will be added to existing Labor Standards materials and presentations. The additional costs will be minimal and considered other duties as assigned within the existing budget.

DLI does not anticipate it would receive complaints of retaliation due to patient care staff making requests to engage in the process outlined in subd. 2. DLI estimates it would receive approximately 10 complaints annually on health care facility retaliation against patient care staff for failing to accept additional patient assignments. This is based on the number of retaliation complaints DLI receives annually for other types of prohibited retaliation.

Because retaliation cases require interviewing workers and witnesses, DLI anticipates that all 10 complaints will require investigation.

Retaliation complaints by patient care staff (10 annually)
 50% of investigations at 5 hours (5 x 5 = 25 hours)
 30% of investigations at 20 hours (3 x 20 = 60 hours)
 20% of investigations at 40 hours (2 x 40 = 80 hours)
 Total hours (nurses) = 165 hours

Along with the investigations DLI anticipates that there will be 20 Inform and Educate inquires that equates to 40 Hours (2 Hours per occurrence x 20 occurrences)

Total Hours required 205 (0.10 FTE)

Retaliation investigations are fact-intensive and difficult to prove; therefore, DLI anticipates it will find retaliation in approximately 20% of its retaliation investigations. Of the 10 complaints investigated, DLI assumes it will find two violations annually and assess two \$2,500 fine each year.

Expenditure and/or Revenue Formula

| Expenditures | 2024 | 2025 | 2026 | 2027 |
|--------------------------------|--------|--------|--------|--------|
| Labor Investigator (MAPE 14G) | 11,781 | 11,781 | 11,781 | 11,781 |
| Cumulative Expenditures | 11,781 | 11,781 | 11,781 | 11,781 |

| FTE Count | 2024 | 2025 | 2026 | 2027 |
|-------------------------------|------|------|------|------|
| Labor Investigator (MAPE 14G) | 0.10 | 0.10 | 0.10 | 0.10 |
| Total FTE | 0.10 | 0.10 | 0.10 | 0.10 |

| Revenues | 2024 | 2025 | 2026 | 2027 |
|------------------------------|-------|-------|-------|-------|
| Annual Retaliation Penalties | 2 | 2 | 2 | 2 |
| Average Penalty Amount | 2,500 | 2,500 | 2,500 | 2,500 |
| Total Revenue | 5,000 | 5,000 | 5,000 | 5,000 |

Long-Term Fiscal Considerations

NA

Local Fiscal Impact

NA

References/Sources

NA

Agency Contact: Jessica Grosz 651-284-5307

Agency Fiscal Note Coordinator Signature: Jacob Gaub

Phone: 651-284-5812

Date: 3/4/2024 5:17:15 AM

Email: jacob.gaub@state.mn.us