



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2023 Biennium

**Bill #** SB0377

**Title:** Revise emergency services licensing laws

**Primary Sponsor:** McClafferty, Edith (Edie)

**Status:** As Introduced

- Significant Local Gov Impact     
  Needs to be included in HB 2     
  Technical Concerns  
 Included in the Executive Budget     
  Significant Long-Term Impacts     
  Dedicated Revenue Form Attached

### FISCAL SUMMARY

	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>
<b>Expenditures:</b>				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$186,599	\$171,931	\$172,072	\$179,576
Federal Special Revenue	\$0	\$0	\$0	\$0
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$186,599	\$171,931	\$172,072	\$179,576
Federal Special Revenue	\$0	\$0	\$0	\$0
<b>Net Impact-General Fund Balance:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**Description of fiscal impact:** SB 377 transfers licensing and other administrative requirements for emergency care providers (ECPs) and emergency medical services (EMS) from the Board of Medical Examiners at the Department of Labor and Industry (DLI) to the Department of Public Health and Human Services (DPHHS), and establishes an emergency care council attached to DPHHS.

### FISCAL ANALYSIS

**Assumptions:**

**Department of Labor and Industry (DLI)**

- Licensing bureau personnel that are assigned to the Board of Medical Examiners estimate they spend a combined thirty hours on average weekly, working on ECP applications, license renewals, and other issues. It is estimated there will be a personal service reduction of \$46,800, (30 hours x 52 weeks x \$30 per hour salary and benefits = \$46,800).

2. Compliance personnel for the division estimate they spend on average three hours weekly working on ECP issues. It is estimated there will be a personal service reduction of \$5,460, (3 hours x 52 weeks x \$35 per hour salary and benefits = \$5,460)
3. The Board of Medical Examiners receives revenue for applications, renewals, late fees, and fines for ECP's annually. It is estimated, based on a five-year average from 2016 through 2020, that the board will see a reduction of revenue annually in the amount of \$195,312, (\$66,471 annual average application fees + \$123,077 renewal fees + \$5,764 late fees and fines).
4. ECP's experienced thirty-two complaints in 2017, fifteen in 2018, nine in 2019, and three in 2020. The board has requested investigations regarding ECP complaints, but not all are extensive investigations, and not all involve travel, therefore operating reductions for travel that would be related to investigations is not included.
5. Board Counsel for the Board of Medical Examiners estimates they spend on average two to five hours weekly on issues regarding or involving ECP's. For purposes of this note, an average of 3.5 hours is being used. Per this average, it is estimated, if regulation of ECP's is moved to DPHHS, the board will see a reduction in operating expenses for legal services in the amount of \$18,564, (3.5 hours weekly x 52 weeks per year x \$102 per hour = \$18,564).
6. The board will incur rulemaking costs to repeal rules regarding ECP regulation and costs to revise forms and the board's website and medical directive information regarding ECP practice. It is estimated there will be a six-page rule notice to repeal rules and a two-page adoption notice. The Secretary of State will bill the board \$480 for printing and publication of the rule notice and adoption, (8 pages x \$60 per page).
7. The board will utilize additional legal services from the department legal rule reviewer to complete the work of repeal. It is estimated the board will be billed forty hours of time for a total of \$4,080, (40 hours x \$102 per hour).
8. The board as required by statute (37-3-203 (2)(a)), contracts with a provider to oversee monitoring and referral for licensee behavioral addiction issues. Presently, there are 35 ECP licensees participating in the program and there are an additional 129 ECP referrals for consultation. It is unknown whether DPHHS would be required to provide these same services for licensees. Because the services are provided by contract, the current amount of the contract would not change for DLI, any changes would need to be considered with a new or revised contract.

**Department of Public Health and Human Services**

9. According to the Department of Labor and Industry, the Board of Medical Examiners receives revenue for applications, renewals, late fees, and fines for ECP's annually. It is estimated, based on a five-year average from 2016 through 2020, that the board will see a reduction of revenue annually in the amount of \$195,312, (\$66,471 annual average application fees + \$123,077 renewal fees + \$5,764 late fees and fines). Per Section 4 of SB 377, the revenue generated by current fees would need to be increased to cover anticipated expenditures.
10. Updates would be required to the current DPHHS system to add new licensure requirements and responsibilities transferred to DPHHS. This includes a one-time cost of \$5,000 in FY 2022 to update the current licensing system, and an annual maintenance fee increase of \$2,500.
11. Transfer of certification, recertification, and training to DPHHS requires a 1.0 FTE Health Education Specialist to work with the Emergency Care Council and the EMS Medical Director to effectuate these new functions.
12. Transfer to DPHHS of processing all initial and recertifications applications, investigating ECP complaints, documenting and reporting on complaints requires a 1.0 FTE Certification and Investigation Specialist.
13. Section 2 requires DPHHS to provide disciplinary recommendations for personnel and EMS licensed by the department. Section 10 states that DPHHS shall review and may investigate complaints involving medical direction of ECPs and EMS. To meet these new requirements, DPHHS would contract with an EMS Medical Director to review the results of an ECP investigation and determine appropriate sanctions, work with the department EMS staff and the Emergency Care Council to create and review standards for ECP training and certification, scope of practice, quality improvement and medication tables. DPHHS estimates these new

responsibilities would require approximately 520 hours of work annually at \$90/hour, resulting in \$46,800 per year.

14. Legal review will be necessary to provide the EMS Medical Director legal guidance in determining appropriate ECP sanctions and to provide legal support to the program for all licensing functions. DPHHS does not have current legal capacity to absorb these new responsibilities, requiring a 0.5 FTE attorney in the Office of Legal Affairs.
15. The EMS Medical Director, EMS Education Specialist, and EMS Certification and Investigation Specialist responsibilities necessitate travel to regional EMS meetings to advise and teach stakeholders, to consult on emergency medical services, perform on-site complaint investigations, and engage in meetings and conferences to ensure up-to-date standards of care in areas of expertise, estimated at approximately \$3,000 annually, with approximately \$3,000 every other year for standards-of-care training.
16. The department estimates 25 pages of associated rule changes in the passage of this bill at \$50 per page for a cost of \$1,250 in FY 2022.
17. Section 4 of the bill directs DPHHS to set fees commensurate with the costs of operating the program. Current revenue generated by Emergency Care License providers is approximately \$195,312 per year. Estimated costs for DPHHS for the implementation of SB 377 would be \$266,044 in FY 2022, \$255,937 in FY 2023, \$256,078 in FY 2024, and \$263,582 in FY 2025. The net cost increases would result in higher licensing fees for emergency medical services providers.

	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>
<b><u>Fiscal Impact:</u></b>				
FTE	1.50	1.50	1.50	1.50
<b><u>Expenditures:</u></b>				
Personal Services	\$129,213	\$129,352	\$131,639	\$135,240
Operating Expenses	\$57,386	\$42,579	\$40,433	\$44,336
<b>TOTAL Expenditures</b>	<u>\$186,599</u>	<u>\$171,931</u>	<u>\$172,072</u>	<u>\$179,576</u>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$186,599	\$171,931	\$172,072	\$179,576
<b>TOTAL Funding of Exp.</b>	<u>\$186,599</u>	<u>\$171,931</u>	<u>\$172,072</u>	<u>\$179,576</u>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$186,599	\$171,931	\$172,072	\$179,576
<b>TOTAL Revenues</b>	<u>\$186,599</u>	<u>\$171,931</u>	<u>\$172,072</u>	<u>\$179,576</u>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$0	\$0	\$0	\$0

**Technical Notes:**

1. Significant rule writing will be required to effectuate transfer of the program to DPHHS. During this process, it will be necessary to ensure that new and existing ECPs can become or maintain their certification and continue education during the transition period.

2. If the Board has a fund balance associated with ECP services, DPHHS would request that the balance would be transferred to the from DLI as soon as practical to offset start-up costs.
3. Section 10 at subsection (2) gives authority to the Department of Public Health and Human Services to investigate “medical direction.” Such direction may come from a variety of licensee types, which are overseen, and subject to discipline, by the Department of Labor & Industry.
4. ECPs are currently entitled to participate in the Montana Physician Assistance Program (MPAP). This legislation appears to remove that entitlement.
5. Section 4 of the bill directs DPHHS to set fees commensurate with the costs of operating the program. Assumption 17 states that the license fees may need increase to a level commensurate with the costs of the program. However, if there is a fund balance from the DLI that is transferred to DPHHS, the need to increase fees will be reduced.

**NO SPONSOR SIGNATURE**

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*Sponsor's Initials*

*3.24*  
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*Date*

*KA*  
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*Budget Director's Initials*

*3-23-21*  
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