# Local Mandate Fiscal Impact Estimate Kentucky Legislative Research Commission 2016 Regular Session

#### **Part I: Measure Information**

Bill Request #: 1019
Bill #: SB 6 SCS
Bill Subject/Title: AN ACT relating to medical review panels.
Sponsor: Senator Ralph Alvarado
Unit of Government: X City X County X Urban-County Unified Local
X Charter County X Consolidated Local X Government
Office(s) Impacted: Government owned health facilities.
Requirement: X Mandatory Optional
Effect on Powers & Duties: Modifies ExistingX Adds New Eliminates Existing

### **Part II: Purpose and Mechanics**

SB 6, as introduced, establishes medical review panels to review malpractice complaints against health care providers. All complaints must be reviewed by the panel which in turn provides an opinion. Only by agreement of all parties may a complaint bypass a panel and proceed directly to a court of law. The statute of limitations is suspended until 90 days after an opinion is given.

The panel will consist of an attorney who also acts as chairperson and three health care providers. The selection and removal processes for panel members are mandated within this proposal as well as procedural requirements and pay / expense reimbursement requirements for the panel.

The panel's opinion shall state one of three possible outcomes:

- -Failure to comply with appropriate standards and the conduct was a substantial factor in producing a negative outcome for the patient;
- -Failure to comply with appropriate standards and the conduct was NOT a substantial factor in producing a negative outcome for the patient; and

-Evidence does not support the conclusion that there was a failure to meet the applicable standard of care.

The admissibility of the panel's opinion in a subsequent lawsuit is dependent on the weight and admissibility of the evidence produced during pretrial discovery. In addition, panel members could be called as witnesses in a civil action.

SB 6 SCS retains the major provisions of the measure as introduced and makes the following change in the bill:

Under Section 5 which creates a new section of KRS Chapter 216C, subsection (3)(a) is amended to authorize the Cabinet for Health and Family Services to promulgate administrative regulations establishing filing fees regarding the filing of malpractice complaints.

#### Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost

The fiscal impact of SB 6 on local governments is expected to be minimal.

For purposes of this local government mandate analysis, only hospitals and long term care facilities owned, operated or contracted for by local governments were considered.

The Cabinet for Health and Family Services (CHFS) states that there are 4 hospitals owned, operated, or contracted by local governments. Those hospitals are all owned by county governments and are listed below:

Casey County Hospital Hardin Memorial Hospital Knox County Hospital Russell County Hospital

There are three long term care facilities owned, operated, or contracted by local governments. Those facilities are listed below:

Cumberland Valley Manor Metcalfe HealthCare Center Spring Creek Health Care

All cost associated with the panel including compensation to the members, reasonable travel expenses, and any other expenses are to be paid for by the party or parties in whose favor the opinion is written.

Whereas government employees are not excluded as possible panel members, there may be costs to cover the work load of a local government employee if one is selected as a panel member or called to be a witness in a court case. This could be an attorney or health care worker employed by the local government.

## The added fiscal impact SB 6 SCS on local governments is nil.

Local Governments will not be the recipient of the filing fee.

**Data Source(s):** <u>LRC staff, Cabinet for Health and Family Services.</u>

Preparer: Wendell F. Butler Reviewer: JWN Date: 1/28/16