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FISCAL IMPACT REPORT

LAST UPDATED 2/9/24
ORIGINAL DATE 2/5/24

SPONSOR Ortiz y Pino

BILL

SHORT TITLE Health Care Licensing Changes NUMBER Sente Bill 44

ANALYST Anderson

REVENUE* (dollars in thousands)

Type	FY24	FY25	FY26	FY27	FY28**	Recurring or Nonrecurring	Fund Affected
Optometry	No Fiscal Impact	(\$.8 to \$1.0)	Recurring	Other State Funds			
Chiropractic	No Fiscal Impact	(\$7.0)	(\$7.0)	(\$7.0)	(\$7.0)	Recurring	Other State Funds
Nutrition & Dietetics	No Fiscal Impact	(\$41.5)	(\$41.5)	(\$41.5)	(\$41.5)	Recurring	Other State Funds
Psychology	No Fiscal Impact	(\$10.8)	(\$10.8)	(\$10.8)	(\$10.8)	Recurring	Other State Funds
Counseling & Therapy	No Fiscal Impact	(\$89.2 to \$374.6)	(\$89.2 to \$374.6)	(\$89.2 to \$374.6)	(\$89.2 to \$374.6)	Recurring	Other State Funds
Pharmacy	No Fiscal Impact	(\$145.6)	(\$145.6)	(\$145.6)	(\$145.6)	Recurring	Other State Funds
Respiratory	No Fiscal Impact	(\$37.8)	(\$37.8)	(\$37.8)	(37.8)	Recurring	Other State Funds
Massage T.	No Fiscal Impact	(\$4.5)	(\$4.5)	(\$4.5)	(\$4.5)	Recurring	Other State Funds
Physical T.	No Fiscal Impact	(\$8.9 to \$6.4)	(\$8.9 to \$6.4)	(\$8.9 to \$6.4)	(\$8.9 to \$6.4)	Recurring	Other State Funds
Acupuncture	No Fiscal Impact	(\$.8 to \$12.0)	Recurring	Other State Funds			
Speech	No Fiscal Impact	(\$13.4 to \$100.5)	(\$13.4 to \$100.5)	(\$13.4 to \$100.5)	(\$13.4 to \$100.5)	Recurring	Other State Funds
Audiology	No Fiscal Impact	(\$13.4 to \$100.5)	(\$13.4 to \$100.5)	(\$13.4 to \$100.5)	(\$13.4 to \$100.5)	Recurring	Other State Funds
Athletic trainers	No Fiscal Impact	(\$1.3)	(\$1.3)	(\$1.3)	(\$1.3)	Recurring	Other State Funds
TOTAL	No Fiscal Impact	(\$375.0 to \$743.0)	(\$375.0 to \$743.0)	(\$375.0 to \$743.0)	(\$375.0 to \$743.0)	Recurring	Other State Funds

Parenteses () indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

** Amounts extend through July 1, 2034

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
RLD BCD	\$11,700.0				Nonrecurring	Other state funds

Parenteses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
Regulation and Licensing Department (RLD)

Agency Analysis was Solicited but Not Received From
Department of Finance Authority (DFA)

SUMMARY

Synopsis of Senate Bill 44

Senate Bill 44 contains no appropriation and gives the Regulation and Licensing Department (RLD) authority to compensate members of healthcare professional licensing boards that are administratively attached. The bill authorizes RLD to compensate board members for time spent carrying out the duties of a board member under the following healthcare acts:

- The Optometry Act, Section 61, Article 2 NMSA
- The Chiropractic Physician Practice Act, Section 61, Article 4 NMSA
- The Dental Health Care Act, Section 61, Article 5A NMSA
- The Nutrition and Dietetics Practice Act, Section 61, Article 7A NMSA
- The Professional Psychologist Act, Section 61, Article 9 NMSA
- The Counseling and Therapy Practice Act, Section 61, Article 9A NMSA
- The Pharmacy Act, Section 61, Article 11 NMSA
- The Occupational Therapy Act, Section 61, Article 12A NMSA
- The Respiratory Care Act, Section 61, Article 12B NMSA
- The Massage Therapy Practice Act, Section 61, Article 12C NMSA
- The Physical Therapy Practice Act, Section 61, Article 12D NMSA
- The Acupuncture and Oriental Medicine Practice Act, Section 61, Article 14A NMSA
- The Athletic Trainer Practice Act, Section 61, Article 14D NMSA
- The Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act, Section 61, Article 14B NMSA

SB44 also requires RLD to waive application, licensure, and renewal fees for new applicants seeking licensure for the identified healthcare professions beginning July 1, 2024, through July 1, 2034, except for the boards of Dental Health Care and Occupational Therapy.

The bill includes a phased approach for effective dates at which members of the board shall be reimbursed as provided by the Per Diem and Mileage Act and may be compensated by RLD for the time spent carrying out duties of a board member.

The effective date of Sections 2, 3, 5, 6, 9, 11, 13, 15, 16, 18, 20, 22, 24, 26, 28 and 30 is July 1, 2024. This date enacts part D, Section 2, suspending application and licensing fees for first time applicants for licensure until July 1, 2034. This is the date at which members of the boards of boards of Optometry, Chiropractic Physicians, Nutrition and Dietetics, Professional Psychologist, Counseling and Therapy, Pharmacy (for the first 2 licenses), Respiratory Care, Massage Therapy, Physical Therapy, Acupuncture and Oriental Medicine, Speech-Language Pathology, Audiology and Hearing Aid Dispensers, and Athletic Trainers.

Section 18 indicates until July 1, 2034, a first-time applicant for licensure shall not be charged an application fee or licensure fee, and a licensee shall not be charged a license renewal fee for the licensee's first two license renewals after obtaining licensure.

The effective date of Sections 8, 10, 17, 19, 23, 25, 27 and 29 is July 1, 2027. This is the date at which members of the boards of Nutrition and Dietetics, Professional Psychologists, Occupational Therapy, Respiratory Care, Physical Therapy, Acupuncture and Oriental Medicine, shall be reimbursed as provided by the Per Diem and Mileage Act and may be compensated by RLD for the time spent carrying out duties of a board member.

The effective date of Sections 12 and 21 is July 1, 2028. This is the date at which members of the boards of Counseling and Massage Therapy Practice shall be reimbursed as provided by the Per Diem and Mileage Act and may be compensated by RLD for the time spent carrying out duties of a board member.

The effective date of Sections 1, 4, 7 and 14 is July 1, 2029. This includes the date at which members of the boards of Chiropractic Physicians, Dental Health Care shall be reimbursed as provided by the Per Diem and Mileage Act and may be compensated by RLD for the time spent carrying out duties of a board member.

July 1, 2029, would mark the effective date all boards shall be reimbursed as provided by the Per Diem and Mileage Act and may be compensated by RLD for the time spent carrying out duties of a board member.

FISCAL IMPLICATIONS

SB44 proposed two incentives for healthcare professionals. It (1) authorizes RLD to compensate board members for their service on boards and commissions that are administratively attached to the agency and (2) waives application, licensure, and renewal fees for new applicants seeking licensure for the identified healthcare professions (except for the boards of Dental Health Care and Occupational Therapy).

Over the course of nine years, FY25 through FY33, the revenue loss to RLD's Boards and Commissions Division (BCD) is estimated to be between \$3.4 million and \$6.7 million if license fees and two renewals per license are suspended for the 13 boards identified in SB44. While BCD operates from funds generated by application, licensure, renewal, and other administrative fees, most of the boards appear they could maintain solvency using fund balance (Attachment 1). However, the Optometry Board does not appear to have enough fund balance to sustain the fee suspension proposed because its projected board fund balance at the end of FY25 is negative.

It is critical to note the analysis on BCD's solvency for its fee suspension for licensure and renewals is only one aspect of SB44. RLD reports for each of the 78 license types affected among the 13 boards identified for a waiver of licensure and renewal fees, there would be a cost incurred in contractual services for making changes to the NMPlus database system. Such changes to the NMPlus licensing system are known as "enhancements," and RLD reports the cost per enhancement is \$150 thousand per license type, a total, nonrecurring cost of \$11.7 million to BCD contractual services in FY25. RLD reports this estimate based on conversations with its vendor, Salesforce, which is currently programming licensing software for the agency.

SIGNIFICANT ISSUES

The New Mexico Health Care Workforce Committee publishes an annual report on healthcare provider shortages in the state (https://digitalrepository.unm.edu/nmhc_workforce/11/) and cites limitations on licensing data due to a ransomware attack leading to a data breach at the RLD. Regarding the 2023 report, the committee stated:

The situation not only impacts this year's report, but we anticipate it will result in the absence of comprehensive data for the next two to three years as all the professions renew their licenses on a multi-year, rotating basis.

RLD BCD is unable to provide data on the number of hours worked by board members in FY23 or years past but speculates board members log four to eight hours per month. Minimum wage in New Mexico is \$12 per hour, so it could be assumed that would be the lowest rate paid by each board, for 13 boards. Compensation might be between \$48 and \$96 per board member, per month. At that assumed rate, one board member would make between \$576 and \$1,152 annually. This rough estimate is included in Attachment 1 and shows a range of \$7,500 and \$14.4 thousand for board compensation, per board member, totaling under a tenth of a percent of the total boards' budgets for the 13 boards in SB44. It appears most boards (except optometry) could maintain solvency and pay a minimum rate for at least one member, but the overall fiscal sustainability largely depends on the number of members being paid, the compensation rate, and average amount of hours worked.

SB44 does not indicate how much board members should be compensated, leaving the authority to determine pay with RLD or DFA. RLD said this could potentially cause a situation where the amount of compensation provided would be designated by each board, with the board members then deciding for themselves what they would be paid. The agency said the Board of Respiratory Care would be an exception because it is an advisory board only, without authority to take independent action. RLD is concerned about inconsistencies and pay discrepancies amongst the boards depending on the rates board members should be compensated.

RLD cited concern that SB44 does not include health professionals licensed under the Social Work Practice Act, Section 61, Article 31 NMSA.

It may be worthwhile to note that, while the bill addresses license and renewal fee suspensions, no waiver for examination fees included.

The analysis does not account for increases or decreases in the demand for licenses and renewals because of changes in the number of healthcare providers practicing in New Mexico.

The effective date for the waiver of fees for the health professional licensing is July 1, 2024. If SB44 is passed, RLD expressed concern about its ability to make the necessary changes to the NMPlus system in time to remain in statutory compliance. RLD estimates a timeframe of six to eight months for the vendor to make changes in the system and add all necessary enhancements for SB44. RLD states the enhancements necessary for the waiver of licensure and renewal fees and are different from what is currently being implemented for the initial system development.

ALTERNATIVES

Compensation for board member duties, suspension of first-time applications, licensure fees, and renewals, and corresponding system enhancements might be piloted on a smaller scale and for a portion of the boards and/or smaller time duration than specified in SB 44 until more data is available on outcomes of the program.

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