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FISCAL IMPACT REPORT

ORIGINAL DATE 02/11/09
 SPONSOR HJC LAST UPDATED 03/19/09 HB CS/CS/498/aSPAC/aSFI#1
 SHORT TITLE Medical Imaging & Radiation Therapy Rules SB _____
 ANALYST Hanika-Ortiz/Wilson

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	\$30.0	\$15.0	Recurring	Radiologic Technology Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$22.5	\$22.5	\$45.0	Recurring	Radiologic Technology Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of SFI#1 Amendment

The House Judiciary Committee substitute for the House Health And Government Affairs Committee Substitute for House Bill 498, as amended changes and adds the following definitions to this bill:

- An “advisory council” means the radiation technical advisory council.
- A “relative” means a person’s spouse, parent, grandparent, step father, step mother, child, grandchild, brother, sister, half-brother, half-sister or spouse’s parent.
- “Rural” means an area or location within a county having 50,000 or fewer inhabitants as of the last decennial census.

The amendment enacts a new section of the Medical Imaging and Radiation Therapy Health and Safety Act. This new material removes and replaces the language in the SPAC amendment.

The Medical Imaging and Radiation Therapy Advisory Council is established and will consist of 11 members. The amendment sets out the procedure for appointing members, removing members and filling vacancies. The amendment further describes who should serve on the Council and what education and experience they need.

A member of the council may receive per diem and mileage as provided for non-salaried public officers in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance in connection with discharge of the duties as a council member.

Synopsis of SPAC Amendment

The Senate Public Affairs Committee Amendment replaces the terms “healing arts” with “medical imaging”, “certification” and “certified” with “licensure” and “licensed”, and “technologist” with “professional” throughout the act; adds more definitions including “diagnostic medical stenographer” to mean one who is not a licensed practitioner but who provides ultrasound, “radiography” to mean the application of radiation to humans for diagnostic purposes, “radiologist assistant” to mean one who holds additional certification and who works under a radiologist”, “physician assistant”; and includes “sound waves” to the definition of “ionizing radiation”.

The Amendment adds a definition of “medical imaging modality” to mean medical sonography and imaging, nuclear medicine technology, radiation therapy, radiography and the various subspecialties. Strikes the proposed definition of “medical sonographer” and includes the term within an amended definition of “medical imaging professional”.

The Amendment refers to credentialing organizations for maintaining medical imaging and radiation therapy standards of practice and continuing education requirements; and refers to national educational accreditation standards for educational programs for the various medical imaging modalities. The department may require students in medical imaging and radiation therapy programs to register with the department; will notify credentialing organizations of any final disciplinary action; and will adopt rules and regulations for the education and licensure of “advanced medical imaging professionals”.

The Amendment further provides for the membership and duties of the “Medical Imaging and Radiation Therapy Advisory Council” and any ad hoc disciplinary review committees it chooses to create. Council members may receive per diem and mileage as provided for in the Per Diem and Mileage Act.

SIGNIFICANT ISSUES

The addition of ad hoc committees may also have a negative impact on operating budgets.

Synopsis of HJC Substitute

The House Judiciary Committee Substitute for the House Health and Governmental Affairs Committee Substitute amends and re-titles the Medical Radiation Health and Safety Act as the “Medical Imaging and Radiation Therapy Health and Safety Act”. The substitute requires the Environmental Health Division of NMED to establish scope of practice and ethics rules for persons providing magnetic resonance and medical sonography services. The substitute also requires the division to establish criteria and maintain standards for magnetic resonance and medical sonography educational programs.

The substitute adds the definitions of “ionizing radiation”, “magnetic resonance technologist”, “medical imaging”, “medical imaging technologist”, “medical sonographer”, “non-ionizing radiation”, and “radiation therapy” to the amended Act.

FISCAL IMPLICATIONS

The substitute bill increases the workload of NMED’s Environmental Health Division but will also increase revenues to support the required program expansion. NMED expects an additional 300 certificants biennially, and believes revenues from the expanded program will be adequate to cover costs. Any additional fiscal impact will need to be balanced with the State’s interest in protecting public health.

The bill provides the department more flexibility in establishing fees to help support program costs. All fees received by the department pursuant to the amended Act will be deposited with the state treasurer for credit toward the Radiologic Technology Fund. The Radiologic Technology Fund is an existing fund established to support the state certification program mandated by the Medical Radiation Health and Safety Act.

SIGNIFICANT ISSUES

The requirements of certification shall not apply to a student completing clinical requirements of an approved education program working under the supervision of a licensed practitioner or under the direct supervision of a certified medical imaging technologist or radiation therapist. The requirements of certification shall also not apply to a certified medical imaging technologist or radiation therapist completing clinical procedures as part of an advanced certification.

Standards for personnel who perform radiologic procedures vary dramatically from state to state. According to American Society of Radiologic Technologists, between 7 and 10 percent of all x-ray examinations performed in the United States must be repeated because of technical errors, improper positioning, incorrect exposure, use of the wrong technique, poor patient instructions or errors in film processing and development that can lead to the need for a repeat exam, thus exposing the patient to double the original level of radiation.

ADMINISTRATIVE IMPLICATIONS

The Environmental Improvement Board promulgated implementing regulations establishing categories and requirements for certification to perform medical imaging or therapy under the supervision of a physician. NMED has reported that these regulations are consistent with emerging national standards for education in medical imaging and treatment. Approximately 2000 individuals are certified by NMED statewide.

OTHER SUBSTANTIVE ISSUES

To receive a certificate from NMED, candidates must first pass a national exam in their specialty, administered by the American Registry of Radiologic Technologists. Candidates cannot “sit” for the exam until they have completed the required training and education from an approved institution. NMED has reported that this is consistent with other states throughout the nation.

The United States Food and Drug Administration and Nuclear Regulatory Commission have established federal regulations for applying radiation to humans. The Consumer-Patient Radiation Health & Safety Act establishes voluntary guidelines for states to follow in regulating persons performing radiologic procedures.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Medical imaging and radiation therapy services currently regulated in New Mexico would remain so. Those not regulated, for example ultra-sound imaging, would remain unregulated except by schools training them, professional associations to which they belong and employers engaging their services.

AHO/svb:mt