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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/21/09

SPONSOR Gardner LAST UPDATED \_\_\_\_\_ HB 585

SHORT TITLE Scope of Practice Act SB \_\_\_\_\_

ANALYST Hanika-Ortiz

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$0.1 Unknown but could be significant	\$0.1 Unknown but could be significant		Recurring	Various

(Parenthesis ( ) Indicate Expenditure Decreases)

Conflicts with SB 174, SB 332 and HB 267

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Office of the Attorney General (AG)  
 Board of Nursing (BON)  
 New Mexico Medical Board (NMMB)  
 Health Policy Commission (HPC)  
 Regulation and Licensing Department (RLD)  
 Department of Health (DOH)

### SUMMARY

#### Synopsis of Bill

House Bill 585 enacts the “Scope of Practice Act” and would require HPC to coordinate the review of any proposed changes brought to a licensing board relating to the scope of practice of professional and occupational health professions licensed by the state pursuant to Chapter 61, NMSA 1978. The bill provides procedures for a proposed change in a scope of practice and delineates the additional duties of ad-hoc review panels, licensing boards and the Commission.

### FISCAL IMPLICATIONS

The bill does not provide an appropriation or identify a budget to support the act. HPC would coordinate the review of scope of practice changes for twenty-three professional and occupational health professions. HPC notes that it is a small agency with limited staff and is

currently operating at capacity. Licensing boards would also be required to collect data, conduct technical assessments and provide analysis, conclusions and recommendations for each proposed scope of practice change. Licensing boards currently conduct public hearings and provide information to their respective boards. RLD reports these new requirements could lengthen the time it takes to adopt changes in a scope of practice.

Scope of practice changes may impact the income of other licensed healthcare professionals, and are rarely done cooperatively. Overlapping scopes of practice are a reality in a rapidly changing health care environment. The scope of practice of a health profession may have a direct impact on patient safety as well as the quality, cost and geographic availability of healthcare services.

The BON notes that the most important argument for change is whether the proposed change will better protect the public and enhance consumers' access to competent healthcare services.

Certain panel members may be able to receive compensation subject to the Per Diem and Mileage Act.

## **SIGNIFICANT ISSUES**

The intent of HB 585 is to provide an avenue for an objective review process for assessing proposed changes in a health professions' scope of practice.

Upon receipt of request for a hearing concerning a proposed change in a scope of practice, the applicable licensing board will: 1) notify the HPC, and 2) collect data; conduct a technical assessment "if necessary" to determine whether the proposed change is in the profession's current scope of practice; and provide conclusions and recommendations to the commission. HPC will appoint an ad-hoc review panel to review and make recommendations on the proposed change. Each panel will include one member of a licensing board and have as one fourth of its membership persons who have no "economic interest" in the profession. The Act will require the panel to provide public notice of proceedings; hear testimony from persons with "special knowledge in the field"; assess whether a proposed change offers "potential harm" or offers a "benefit" to the health, safety or welfare of consumers; and, study the benefit of any proposed changes.

## **PERFORMANCE IMPLICATIONS**

HPC notes that the scope of practice of a licensed healthcare profession is statutorily defined in state law in the form of a practice act. State legislatures have the authority to adopt or modify practice acts and therefore adopt or modify a particular scope of practice of a healthcare profession.

HPC and licensing boards will be granted with rulemaking authority to promulgate those rules that are necessary to carry out the provisions of the act. The new panel may impact the Legislature's role in determining scopes of practice through the hearing process and the sunset process.

NMMB reports that scope of practice changes can pose risks to the public if not accompanied by appropriately expanded education and oversight. Scope of practice changes often go directly to the Legislature without obtaining the support of the primary licensing board or of any other

licensing board affected by the proposed change. Once at the Legislature, changes are considered in isolation from one another.

### **ADMINISTRATIVE IMPLICATIONS**

By September 15 of each year, HPC shall provide to the Governor, the New Mexico Legislative Council, The Legislative Finance Committee, and the interim Legislative Health and Human Services Committee a report on each proposed change in scope of practice brought before the Commission.

### **CONFLICT**

Conflicts with SB 174: Professional Licensing Board Review Act; proposing to create a process by which health professionals assess proposed changes to their scope of practice acts. HB 585 charges HPC with enforcing the scope of practice act; SB 174 charges RLD with enforcing the professional licensing board review act.

Conflicts with SB 332 creating the Office of Health Policy; if enacted, the bill would abolish the HPC and transfer the agency to DOH.

Conflicts with HB 267 creating the Health Care Authority; if enacted, the bill would abolish the HPC and transfer the agency to the health care authority.

### **TECHNICAL ISSUES**

The AG reports Section 5(B) refers to the Administrative Procedures Act instead of the Uniform Licensing Act.

The bill includes the Dean of the University of New Mexico School of Medicine” as a “standing member” of the ad hoc review panels, reviewing the changes of scope of practice of nurses, dentists and other professionals not part of the Board of Medicine.

The bill is unclear as to whether all requests for scope of practice changes must receive a hearing, regardless of merit.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Scope of practice changes to rules would continue to be adopted as defined in the State Rules Act and the Uniform Licensing Act; and be subject to individual board variations in process.

### **AMENDMENTS**

Page 1; delete line 23 after “...Chapter 61,” to line 25 through “...or 14E” NMSA 1978. The AG reports this would avoid the need to require statutory amendments for the addition of any new health profession under the act.

Page 2; line 4 insert the word “by” between the words “...permitted” and “a...”.