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FISCAL IMPACT REPORT

ORIGINAL DATE 02/23/09

SPONSOR Garcia, MJ LAST UPDATED _____ HB _____

SHORT TITLE Medical Imaging & Radiation Therapy Health SB 616

ANALYST Hoffmann

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	\$30.0	Recurring	Radiologic Technology Fund

(Parenthesis () Indicate Expenditure Decreases)

Please see the FISCAL IMPLICATIONS section.

House Bill 498/HJCS is a duplicate of Senate Bill 616

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)

The above revenue estimate was provided by the NMED

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		

(Parenthesis () Indicate Expenditure Decreases)

The above estimate was provided by the NMED

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Environment Department (NMED)
Health Policy Commission (HPC)
Higher Education Department (HED)

No Response

Department of Health (DOH)

SUMMARY

Synopsis of Bill

Senate Bill 616 amends and re-titles the Medical Radiation Health and Safety Act as the “Medical Imaging and Radiation Therapy Health and Safety Act”. The bill 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 bill also requires the division to establish criteria and maintain standards for magnetic resonance and medical sonography educational programs.

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

FISCAL IMPLICATIONS

The substitute bill increases the workload of NMED’s Environmental Health Division but will also increase revenue to support the required program expansion. 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.

The NMED comments that revenues from the expanded program scope (300 additional certificates biennially) will be adequate to cover costs to the Environment Department. This legislation will not increase existing fees, but will provide the Environment Department the necessary flexibility in covering the costs of program implementation.

Senate Bill 616 creates a new Radiologic Technology Fund and provides for continuing appropriations. Balances in the Radiologic Technology Fund shall not revert at the end of the fiscal year. The continuing appropriations consist of fees collected by the Environmental Improvement Division of the NMED. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

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.

The HED reports that Senate Bill 616 has the potential to cause changes in educational requirements that may affect postsecondary institutions in New Mexico, especially those public colleges and universities that oversee hospitals and clinics. Any fiscal implications to New Mexico's public universities and colleges will be determined by the extent to which new regulations change current educational standards.

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.

TECHNICAL ISSUES

The NMED claims that Senate Bill 616 may have unintended consequences. The bill renames the Radiation Technical Advisory Council the "Medical Imaging and Radiation Therapy Advisory Council." The Radiation Technical Advisory Council is an advisory group concerning regulation of uses of ionizing radiation. The Council provides advice and concurrence on regulations governing the registration of radiation machines and radioactive materials for use in industrial, academic and medical pursuits. The Council includes limited members who are involved when the regulations being considered affect certification of a technologist. The new name would not accurately reflect this broad mandate for the Council. In addition, references to the Radiation Technical Advisory Council in other statutes and regulations promulgated by the Environmental Improvement Board would need to be amended.

The NMED suggests the following changes to Senate Bill 616.

Page 2, line 21-23; delete amendment, keep the Radiation Technical Advisory Council.

Page 3, line 17; delete "improvement," replace with "health"

Page 8, line 15; delete "for auxiliaries" and replace with "auxiliary or health practitioner." This provision should apply to both "auxiliary" or "health practitioner" referenced in the earlier portion of the sentence, which has created some confusion.

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.

The HPC comments that in 1981, Congress passed the Consumer-Patient Radiation Health and Safety Act. (Compliance was voluntary) 33 states have implemented licensure laws regulating radiologic technologists and radiation therapists, and only 21 states license nuclear medicine technologists. The remaining 17 states have tens of thousands of individuals with limited training and no credentials that are allowed to provide medical imaging and radiation therapy care. Uncertified, inadequately educated workers represent a risk to patients and compromise the quality of radiologic care.

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.

CH/svb