

Synopsis of HHC Substitute for House Bill 102

House Bill 102 would create a Scope of Practice Committee charged with reviewing proposed changes to an existing scope of practice, regulation of unregulated health professions, or establishment of licensing boards. The committee would be composed of eight members, four appointed by the Speaker of the House of Representatives and four appointed by the Senate Committees' Committee (or President Pro Tempore of the Senate with a majority of the Committee's Committee consent if appointed during the interim). Appointments from each House must give the two major political parties proportional representation as prevails in each house and no party shall have less than one member on the committee. If a committee member is licensed in the health profession of a proposed statutory change in scope of practice, they be recused from the committee's review, findings, recommendations, or report. Staff for the committee will be provided by the Legislative Council Service.

The committee shall collect data, including information from the proponent and all other appropriate persons, necessary to review the proposed change; ensure appropriate public notice of the committee's proceedings; invite testimony from persons with special knowledge in the field; assess the potential harm or benefit to consumers, assess the impact on overall health care costs, assess the impact on access and quality of health care, and summarize its assessment, analysis, and recommendation in a final report to the standing committees to which legislation regarding the proposal is referred.

FISCAL IMPLICATIONS

House Bill 102 could have fiscal implications for the Legislative Council Service but the fiscal impact is indeterminate.

SIGNIFICANT ISSUES

RLD provided the following:

The Scope of Practice Committee is made up of a bipartisan and equal membership of political parties. However, there is not a requirement that any of these individuals be a member of a particular health profession or any particularized knowledge of health care. Yet, this committee would have oversight over health professionals and any rules that would change their scope of practice. It would provide for an additional layer of oversight, but might result in unnecessary delays and obstruction in the health professions boards' abilities to enact rules for their own professions.

The Board of Nursing provided the following:

The committee will only be reviewing statutory changes in scope of practice; however, scope of practice is substantially defined in rule. The committee's responsibility related to scope of practice (outlined on page 4, lines 18 through 20), includes delivering recommendations to standing legislative committees which do not promulgate rules because that is a function of regulatory boards. This parallel process may confuse the public as to who has the authority and responsibility of promulgating rules related to healthcare roles.

Regulating scope of practice requires expert knowledge of each role’s scope and standards. While the bill does instruct the committee to invite comment from persons with knowledge in the field (page 4, lines 5 through 6), it does not qualify any level of expertise required to advise the committee on a very specialized body of knowledge.

The Medical Board provided the following:

Currently, there is no mechanism for formal review of proposals to expand professional scope of practice. HB 102 proposes a process similar to the recommendations of the Special Report of the Federation of State Medical Boards entitled “Assessing Scope of Practice in Health Care Delivery: Critical Questions in Assuring Public Access and Safety.” Page 2 of that document states:

All discussions about changes in scope of practice should begin with a basic understanding of the definition of the practice of medicine and recognition that the education received by physicians differs in scope and duration from other health care professionals. Non-physician practitioners may seek authorization to provide services that are included in the definition of the practice of medicine under existing state law. In evaluating these requests, policy makers should examine a variety of issues, including: economic impact on health care delivery; standards for education, training and examination; practice parameters; and regulatory mechanisms. Patient safety and accountability should be the most important factors in establishing expectations and limitations associated with scope of practice changes.

HB 102 requires the committee to collect data from all persons necessary to evaluate the proposal, which would include the affected licensing board, stakeholders, and proponents and opponents of the legislation. This process subjects proposals to expand existing scope of practice to a thorough review both by all interested parties.

ALTERNATIVES

Section 2-13-3 NMSA 1978 allows the Legislative Health and Human Services Committee to create subcommittees. The legislature may want to create a subcommittee on scope of practice instead of creating a new standing interim committee.

RELATIONSHIP

This bill relates to HB 48 and SB 78 regarding the regulation of licensed health professions. HB 48 and SB 78 amend the Osteopathic Medicine and Surgery Act to consolidate and further define licensure requirements and approved practices for osteopathic physicians and osteopathic physician assistants. This bill also relates to SB 267, which amends the Medical Practice Act to include the definition of “collaboration,” or the process by which a physician and physician assistant jointly contribute to the health care and medical treatment of patients.

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