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FISCAL IMPACT REPORT

SPONSOR: SPAC DATE TYPED: 3/15/03 HB _____
 SHORT TITLE: NM Board of Dentistry Changes SB CS453/aSfI#1/aSfI#2
 ANALYST: Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			See Narrative		

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
		Indeterminate	Recurring	OSF

Relates to: HB 145, SB 408, SB 173, SB 450

SOURCES OF INFORMATION

Responses Received From
 Regulation & Licensing (RLD)
 Health Policy Commission (HPC)

SUMMARY

Synopsis of SF1 Amendment #2

The Senate Floor amendment #2 adds hospitals licensed by the DOH to entities who may function as a non-dentist owner without a New Mexico license and clarifies that non-profit organizations under this exemption must be community-based entities using public funds to provide dental and dental hygiene services for indigents.

Synopsis of SF1 Amendment #1

The Senate Floor Amendment #1 lowers the penalty for a person who attempts to practice as a dental hygienist without a license to a misdemeanor and lowers the sentence to less than one year's imprisonment or \$1,000 fine or both.

Synopsis of Original Bill

The Senate Public Affairs Committee Substitute for Senate Bill 453 amends the Dental Health Care Act to expand licensing provisions, amend Board of Dental Health Care rule making authority and extends the sunset date. SB 453/SPACS amends a section of the Impaired Dentists and Dental Hygienists Act, clarifies definitions and performs language clean up.

SB 453/SPACS specifically does the following:

- Authorizes the BD to grant licenses to non-dentist owners of dental practices and corporate entities employing or contracting with dentists or dental hygienists. These entities will also be subject to discipline by the BD.
- Allows existing nonprofit organizations performing dental and dental hygiene services for indigent persons to function as a non-dentist owner without a New Mexico license.
- Exempts dental assisting students from dental licensing requirements while under the supervision of a faculty member who is a licensed dentist.
- Reorganizes districts and clarifies the term limits for BD members and specifies that members of the board who are not also members of the disciplinary committee may not attend committee disciplinary hearings.
- Increases the number of members on the New Mexico Dental Hygienist Committee from seven to nine, by increasing the number of dentist and public members to 2 in each category.
- Empowers the BD to collect demographic data necessary to serve its needs, and to make composite reports of said data available to the public. Public access to individual names, addresses, license numbers and license actions is limited.
- Tightens the requirements for general and specialty licensure by credentials by requiring that the applicant have no dental board actions within the previous five years.
- Tightens the requirements for dental hygienist licensure by credential by requiring that the applicant's license be in good standing for the two previous years in another state.
- Establishes licensure requirements for non-dentist owners in New Mexico and includes license renewal requirements and establishes the length of license as three years.
- Establishes processes by which a dentist or dental hygienist may place his or her license in an inactive status, establishes as three the number of years inactive licenses are valid and describes the process of reactivating a license.
- Increases the penalties and designates as a fourth degree felony any person who practices or functions without a license as a dental hygienist or non-dentist owner.
- Increase some fees for licensure of dentists and dental hygienists, and to establish the licensure fees for non-dentist owners and for renewal of inactive licenses.

- Includes language stipulating confidentiality of data and communications regarding complaints, communications or disciplinary action, except for cases made to law enforcement, national database clearinghouses or other licensing boards.

Significant Issues

The New Mexico Board of Dental Health Care/ New Mexico Dental Hygienist Committee in collaboration with the New Mexico Dental Association and the New Mexico Dental Hygienists Association worked towards a unified statute. SB 453/SPACS is the result.

Licensure of the “non-dentist owner” allows for the BD and the committee to require individuals or entities not licensed as a dentist in New Mexico censure. Non-dentist owners currently do not fall under the purview of the Dental Health Care Act. Entities such as these are often times held unaccountable for violations within the Act, which can have severe consequences when protection of the public is of concern. Responsibility for patients well being and treatments are delegated ineffectively and without regard for safety. Guidelines within the act are established to ensure adequate care is provided for, assuring accountability to the public and their welfare.

Allowing existing nonprofit organizations performing dental and dental hygiene services for indigent persons to function as a non-dentist owner without a New Mexico license creates loopholes which will allow non-dentist owners to effectively limit the treatments of Medicare and Medicaid patients since the BD will not have the authority to hold them to a recognized standard of care.

Inactive status of a license will afford licensees the opportunity to place their retired license in an inactive status. Inactive licensees may not engage in any activities contained within the scope of practice of dentistry or dental hygiene. If so desired an inactive licensee may request his license be reinstated to active license within nine years or the inactive license will be retired permanently. Currently statute only allows a license to retire his license.

Practicing without a license for the practice of Dental Hygiene currently is only punishable as a misdemeanor. Concurrently practicing Dentistry without a license is punishable by law to a fourth degree felony. Allowing the practice of Dental Hygiene to be punishable to a fourth degree felony would align the practices accordingly.

The Dentist and Dental Hygienist licensure requirement of having an active license in good standing prior to application provides acceptable standards by which the public of New Mexico can be assured of their safety. A license in good standing for a period of five years for a Dentist and two years for a Dental Hygienist indicates a pattern of success with regard to patient treatment and care. Used as a national standard, this requirement allows the Board to have confidence and responsibility accessed before licensure is permitted. Review of applicants and their qualifications is pertinent to licensure as well as a definition of accountability to the public.

FISCAL IMPLICATIONS

Revenues initially earned will cover any cost associated with implementation of the Non-Dentist Owners and inactive licensees.

ADMINISTRATIVE IMPLICATIONS

Non-dentist owners and inactive license types. May result in the need for another FTE to manage and process the licensee base.

RELATIONSHIP

SB 453/SPACS relates to:

HB 145 extends the sunset dates for affected boards, including the BD..

SB 408 appropriates \$100,000 in general fund to the DOH for fiscal year 2004 to provide rural portable dental clinics for children.

SB 173 appropriates \$1,200,000 from the general fund to the DOH in fiscal year 2004 to contract with rural primary health care and dental clinics to leverage federal dollars at newly established or expanded clinic sites.

SB 450 appropriates \$669,000 from the general fund to the public health division of the DOH in fiscal year 2004 to provide community dental health services.

TECHNICAL ISSUES

RLD has suggested the following:

Section 61-5A-26.currently reads: "Payment out of the board fund shall be on vouchers issued and signed by the secretary-treasurer of the board upon warrants drawn by the department of finance and administration in accordance with the budget approved by that department." This language should be deleted because it is inconsistent with RLD's internal financial control and signature authority procedures.

New language could read: "Payment out of the board of dentistry fund shall be on vouchers issued and signed by the superintendent of the regulation and licensing department or his designee upon warrants drawn by the department of finance and administration in accordance with the budget approved by that department.

DW/njw/lr:yr