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FISCAL IMPACT REPORT

SPONSOR Jennings DATE TYPED 1/28/2005 HB _____

SHORT TITLE Medical Practice Act SB 341

ANALYST Moser

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
NM Medical Board

SUMMARY

Synopsis of Bill

Senate Bill 341 clarifies and corrects existing language. Several changes are substantive, including authority to subpoena peer review records and keep them confidential, authority for the board to make exceptions to the time frame for completing examinations, and clarification of language about inappropriate sexual contact with patients and/or their guardians.

Significant Issues

Expanded subpoena power and streamlined language about sexual misconduct will assist the Board to fulfill its statutory mandate to protect the NM public through investigations of consumer complaints against physicians. Clarification to licensure sections will assist applicants to better understand the requirements for licensure. Provisions for exceptions to the examination timeframe will permit the Board to be more flexible in its consideration of individual applicants.

PERFORMANCE IMPLICATIONS

Clarifications and changes to the MPA in this bill will allow the Medical Board to improve its performance in investigations and licensing.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The language in SB341 conflicts with some of the amendments in SB297.

TECHNICAL ISSUES

The Medical Board, after further analysis of their recommended changes on page 4, lines 18-19, recommends that the language should not be changed as proposed.

OTHER SUBSTANTIVE ISSUES

The Board currently has the authority to issue investigative subpoenas, however, the new language requires review organizations to comply with board subpoenas and clarifies current concerns about the confidentiality of information provided to the Board. All information subpoenaed remains confidential and will not be disclosed, except in very limited circumstances. (Pages 1, 2 and 20)

Existing licensing requirements prescribe a period of seven years for an applicant to complete the examination series (ten years for certain applicants). The proposed new language will allow the board to develop a rule establishing other exceptions to this seven-year requirement. In the past few years several qualified applicants were not able to be licensed in New Mexico because of the existing provision and many other states have dropped or revised their time frames for examinations given that there appears to be no direct correlation between time in which the examination series was completed and future competence of the physician. (Page 6)

Existing language about inappropriate sexual contact between a physician and patient or the guardian of a patient requires that the physician represents or infers that the sexual contact is part of the patient's treatment. This is an artificial and outdated limitation, and removal of this language will enhance the Board's ability to carry out its statutory mandate to protect the NM public. (Page 16.)

The Medical Board considers the following amendments to be primarily clean-up and clarification:

- Page 5, line 4, removing the requirement for "good moral character" because other provisions of the law allow us to determine if an applicant has convictions or licensing actions. This language is being removed throughout the Act.
- Page 5, line 5, change the language "medical college or school in good standing" to an "accredited" U.S. or Canadian medical school. This clarifies what "good-standing" actually means. This language is also being clarified as it applies to licensing by endorsement on page 7, line 6.
- Page 5, line 19, because U.S. and Canadian schools are very similar in curriculum requirements we have included both in the first paragraph. This paragraph only applies to graduates from a medical school located outside the US or Canada.
- Page 7, lines 3-4, and lines 19-20, are being deleted as outdated. License verification is no longer dependent upon "proper endorsement" but is done electronically.
- The changes to pages 9 and 10 allow the board to designate someone other than the secretary-treasurer to approve temporary licenses. These sections also include drafting changes with no substantive change in the requirement.
- Page 19, the changes to Public Service licenses will be consistent with current prac-

tice and establish a fixed date for license expiration. Currently the licenses are valid for one year and can expire on any date, which has become a tracking nightmare for staff.

ALTERNATIVES

Page 4, lines 18 and 19, remove the proposed amendments and allow the language to remain as currently written.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

Certain investigation and disciplinary powers of the Board will continue to be limited. The Board will continue to have no flexibility regarding examination time frames, and may have to turn away otherwise qualified applicants.

GM/yr:lg