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FISCAL IMPACT REPORT

ORIGINAL DATE 011/30/08

SPONSOR Feldman LAST UPDATED _____ HB _____

SHORT TITLE Health Provider General Liability Insurance SM 11

ANALYST Hanika-Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$0.1/minimal			Non- Recurring	GF

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Medical Board (NMMB)
 Health Policy Commission (HPC)
 Department of Health (DOH)
 Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

Senate Memorial 11 requests that the DOH convene a task force on health care provider general liability insurance to study and make recommendations to the Legislative Health and Human Services Committee on the best means of offering financial support to health care providers to offset general liability insurance premiums.

This memorial requires the task force to report its findings to the Legislative Health and Human Services Committee by September 1, 2008.

FISCAL IMPLICATIONS

Agencies will need to provide staff time to participate on the task force.

SIGNIFICANT ISSUES

HPC reports that to be qualified under the New Mexico Medical Malpractice Act, health care providers must either obtain coverage from an insurer on an "occurrence" policy form or else maintain a substantial cash deposit with the Superintendent of Insurance. In addition to coverage

premium payments, qualifying health care providers must also pay an annual surcharge to the Patient Compensation Fund.

HPC further reports that the New Mexico Medical Malpractice Act also requires participating insurance companies to issue occurrence type policies with limits of \$200,000 per claim. In addition to the policy premium, the insurers collect a surcharge (determined by the State) from each policyholder. The surcharge amount is placed in the Patient Compensation Fund. The funds are used to pay judgments or settlements in excess of the \$200,000 per claim limit. Payments from the Patient Compensation Fund are subject to the specific terms of the Act, which includes damage up to \$600,000, plus past and future medical expenses.

DOH reports that successful health care provision depends on the availability of qualified healthcare professionals. Assuming that more coverage is obtained for the uninsured, coverage does not equate to access if there are not enough health care providers available to actually provide the care.

DOH further reports that currently thirty-two of the thirty-three counties in the state are designated as Health Professional Shortage Areas (HPSAs), for primary care physicians and psychiatrists. Recruitment to these areas is difficult for a variety of reasons, including the inability to secure affordable provider insurance. As health professional insurance coverage for certain disciplines (e.g. obstetricians and surgeons) becomes exceedingly expensive, alternatives such as subsidies, tax credits or other mechanisms may become important for the state.

PERFORMANCE IMPLICATIONS

The NMMB notes that it has been several years since health care provider general liability insurance has been studied; and, the Board would support revisiting this issue.

New Mexico needs to be aware of changes in the medical malpractice market and identifying appropriate incentives to assist with health care practitioner retention and recruitment. The NMMB further notes it would be beneficial to study what other states are doing to increase affordable, accessible health care, particularly within high-risk medical specialties and in medically underserved communities.

ADMINISTRATIVE IMPLICATIONS

The Memorial requests the DOH convene the task force in conjunction with the NM Medical Society, the Insurance Division of the Public Regulation Commission, the Attorney General, the NM Health Policy Commission and the NM Nurses Association.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SM1, requests that the HPC continue the work of its task force on obstetric health care practitioner liability insurance.

TECHNICAL ISSUES

See suggested amendments.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The issue of high general liability insurance premiums will not be studied in depth.

AMENDMENTS

The HPC suggests the following:

Page 2, line 7, replace “New Mexico Health Policy Commission” with “United States Department of Health and Human Services” because this department determines Health Professional Shortage Areas.

Page 3, line 7, correct a drafting error by replacing the word “damages” with the proper term “premiums.”

Replace the term “general liability” (as used in the title and body of the bill) with “professional liability” on page 1, lines 12, 15, 18, 21-22; page 2 line 2; page 3, lines 16-17, and line 21.

AHO/jp