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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 2/10/15

**SPONSOR** Ortiz y Pino **LAST UPDATED** \_\_\_\_\_ **HB** \_\_\_\_\_

**SHORT TITLE** Social Work Practice Act Changes **SB** 256

**ANALYST** Elkins

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		NFI*				

(Parenthesis ( ) Indicate Expenditure Decreases)

\*See Administrative Implications

Duplicates HB169  
Relates to HB134

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Regulation and Licensing Department (RLD)  
Children, Youth, and Families Department (CYFD)  
Aging and Long Term Services Department (ALTSD)

### SUMMARY

#### Synopsis of Senate Floor Amendment #1

Senate Floor Amendment 1 to Senate Bill 256 requires the Board of Social Work Examiners to request that an individual voluntarily cease and desist from practicing social work without a license or otherwise violating the Social Work Practice Act. If the board's efforts to gain cooperation are unsuccessful or the board deems the situation an emergency, the board may apply for an injunction in district court. The amendment also repeals Section 61-31-2 NMSA 1978, which states the purpose of the Social Work Practice Act, and Sections 61-31-23, which outlines the current injunctive proceedings for the board.

#### Synopsis of Bill

Senate Bill 256 amends the Social Work Practice Act in the following ways:

- Prohibits the practice of social work by unqualified persons;
- Defines client, consultation, continuing education, and supervision;

- Clarifies only licensed clinical social workers or licensed independent social workers can provide supervision for those social workers who are seeking supervision in order to become licensed as a licensed clinical social worker or a licensed independent social worker;
- Allows individuals interested in serving on the board to submit their resumes to the governor;
- Allows for electronic participation in board meetings;
- Adds language which allows the governor to remove any member of the board for social work code of ethics or professional standards of practice violations in addition to the reasons previously listed;
- Gives the board authority to issue a cease and desist order to an individual who is not a licensed social worker New Mexico but who is acting in a social work role or who is practicing social work;
- Broadens the board's authority to define what appropriate supervision for a person seeking independent or clinical licensure;
- Allows the board to determine the appropriate application of technology to social work practice;
- Allows applicants with a bachelor's or master's degree in social work to obtain a provisional license for up to one year;
- Extends the sunset date for the board to July 1, 2025;
- Adds a section outlining the requirements to be licensed as an independent social worker. A licensed independent social worker shall be at least 18 years of age, possess at least a master's degree in social work, have completed the number of hours required of postgraduate social work experience under appropriate supervision, have completed training in New Mexico cultures as specified by the board, have completed a jurisprudence examination specified by the board, and passed the Association of Social Work Boards' advanced generalist examination or other examination approved by the board;
- Adds a section outlining the requirements to be licensed as a clinical social worker. A licensed clinical social worker shall be at least 18 years of age, possess at least a master's degree in social work, have completed the number of hours required of postgraduate social work experience under appropriate supervision, have completed training in New Mexico cultures as specified by the board, have completed a jurisprudence examination specified by the board, and passed the Association of Social Work Boards' clinical examination or other examination approved by the board;
- Adds a section outlining the requirements to be licensed as a master of social work. A licensed master of social work shall be at least 18 years of age, possess at least a master's degree in social work, have completed training in New Mexico cultures as specified by the board, have completed a jurisprudence examination specified by the board, and passed the Association of Social Work Boards' master's examination or other examination approved by the board;
- Adds a section outlining the requirements to be licensed as a bachelor of social work. A licensed bachelor of social work shall be at least 18 years of age, possess at least a baccalaureate degree in social work, have completed training in New Mexico cultures as specified by the board, have completed a jurisprudence examination specified by the board, and passed the Association of Social Work Boards' bachelor's of social work examination or other examination approved by the board;
- Repeals Section 61-31-9 NMSA 1978, which outlines the requirements for each level of

licensure;

- Repeals Section 61-31-12 NMSA 1978, which allows licensure without written examinations if an applicant meets certain requirements; and
- Repeals Section 61-31-13.1 NMSA 1978, which allows temporary licensure for a period of 6 months or the amount of time necessary for the board to ensure the applicant has met the licensure requirements.

## **FISCAL IMPLICATIONS**

There are no identified fiscal implications.

## **SIGNIFICANT ISSUES**

Granting the board authority to issue a cease and desist order to an individual who is not a licensed social worker New Mexico but who is acting in a social work role or who is practicing social work will help the board protect the public from unlicensed practice.

Allowing board members to attend meetings telephonically will ensure the board has a quorum to conduct business at scheduled board meetings.

The Aging and Long Term Services Department offers the following commentary:

In section 3.A and section 3.A.1 of the bill it states that it would be unlawful for an unlicensed individual to engage in the practice of social work. If it is interpreted that Adult Protective Services (APS) caseworker/investigators engage in the practice of social work in the course of investigations, it would prevent ALTSD from employing unlicensed individuals and impair ALTSD's ability to provide investigations and protective services interventions.

During FY07, ALTSD, in consultation with the State Personnel Office, decided APS caseworker/investigators do not require a social worker license for their scope of work. ALTSD's adult protective services had experienced a severe shortage of field staff throughout the state over a period of time, due to a lack of licensed social worker applicants, particularly in field offices in rural regions of the state, but also in the metro area. Given that many licensed social workers are seeking to provide treatment or clinical services and are not interested in becoming investigators of adult abuse, neglect, or exploitation, ALTSD experienced a vacancy rate as high as 30 percent and had difficulty maintaining an adequate number of staff to fulfill its statutory obligation. At that time ALTSD attorneys provided the legal opinion that the APS statute did not require caseworker/investigators be licensed social workers. Since APS caseworkers do not provide treatment, serve in a clinical capacity, or practice in other ways as defined by the Social Work Practice Act, and are classified as social and community service coordinators by the State Personnel Office, it was determined that APS caseworker/investigators are not required to be licensed social workers.

**ADMINISTRATIVE IMPLICATIONS**

According to the Aging and Long Term Services Department, if SB 256 passed and subsequently it was interpreted that APS caseworkers/investigators engage in the practice of social work, they would be prohibited from performing the duties of their job unless they were licensed social workers. The impact would be significant, resulting in severe staffing shortages impeding the ability to timely investigate allegations of neglect, abuse, or exploitation. Also, ALTSD would see an increase in personal services and employee benefit if they were required to hire licensed social workers to fill caseworker/investigator positions.

CE/je/aml