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## FISCAL IMPACT REPORT

**SPONSOR** Papen **ORIGINAL DATE** 1/21/16  
**LAST UPDATED** 2/13/16 **HB** \_\_\_\_\_  
**SHORT TITLE** Osteopath Licensure & Act Changes **SB** 78/aSPAC/aSJC/aSFI#1  
**ANALYST** Liu

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

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$1.8	\$1.8	\$3.6	Recurring	Other State Funds

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates HB 48  
 Relates to HB 102, SB 267

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
 Regulation and Licensing Department (RLD)  
 NM Medical Board (MB)

### SUMMARY

#### Synopsis of SFI#1 Amendment

Senate Floor amendment number 1 to Senate Bill 78 changes the penalties for licensees practicing with a revoked or suspended license to a fourth degree felony (sentenced under provisions of the Criminal Sentencing Act) with imprisonment up to 18 months or a fine up to \$5,000, or both. This amendment makes penalties the same for unlicensed persons and licensees with revoked or suspended licenses that practice osteopathic medicine.

#### Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to Senate Bill 78 strikes “a criminal abortion” from page 20, lines 8 and 9, and inserts “an illegal procedure” in its place to expand the bill’s scope of unprofessional or dishonorable conduct.

#### Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment to Senate Bill 78 changes the requirement for a license applicant to be a graduate of a college of osteopathic medicine accredited by the

Commission on Osteopathic College Accreditation and recognized by the American Osteopathic Association. The original bill only required the college to be accredited or recognized by one of the organizations.

Synopsis of Original Bill

Senate Bill 78 renames Section 61-10 NMSA 1978 the Osteopathic Medicine Act and the Board of Osteopathic Medical Examiners the Board of Osteopathic Medicine. Overall, the bill is a revision and update of the Osteopathic Medicine and Surgery Act. Definitions have been added to the act. The bill repeals the Osteopathic Physicians' Assistants Act and includes physician assistants in the Osteopathic Medicine Act by adding provisions pertaining to osteopathic physician assistants.

The bill proposes an additional osteopathic physician board member position and an osteopathic physician assistant board member position. A new section requires the Governor's office to make board member appointments from a list of five qualified osteopathic physicians and five osteopathic physician assistants provided by the New Mexico Osteopathic Medical Association. The board members shall not serve more than two consecutive four-year terms. Duties and powers of the board have been added to the act.

Additional requirements for licensure are proposed in the bill, including temporary licensure for osteopathic physicians to provide specific board-approved services for up to 18 months. An osteopathic physician applying for licensure after the effective date of this bill will be required to have completed at least two years of post-graduate training to get licensed in the state. A more comprehensive breakdown of fees is also added in this bill.

The bill proposes triennial renewal for licensees to match the required triennial continuing medical educational requirement. Licensure without examination requirements will apply to any branch of the armed forces. Practicing osteopathic medicine and osteopathic telemedicine without a license will constitute a fourth degree felony and be sentenced under the provisions of the Criminal Sentencing Act.

The refusal and revocation of licensure is expanded in the bill. A new section allows the board to immediately suspend or restrict a license to practice osteopathic medicine without a hearing for the public's safety. A section has been added to protect the integrity of an investigation when a complaint has been filed regarding actual or potential disciplinary action. Another section has been added, allowing osteopathic physician assistants to request inactive status for licenses.

Exemption from licensure has also been added to the act for osteopathic physician assistant students while enrolled in an educational program accredited by the Commission on Accreditation of Allied Health Education Programs. Osteopathic physician assistants employed by the federal government while performing duties incident to that employment are also exempted. The bill requires the NM Medical Board and Board of Osteopathic Medicine to adopt rules for practitioners prescribing controlled substances. Additionally, osteopathic physician assistants will now be able to serve within the scope and practice of any supervising physician pursuant to regulations adopted by the board.

**FISCAL IMPLICATIONS**

RLD estimates the board’s operating budget will increase by \$1.8 thousand in FY17 and FY18 for per diem expense associated with two additional board members.

**SIGNIFICANT ISSUES**

According to RLD, a fee is created for impaired physicians; however, it is unknown how frequently this fee needs to be paid, and the bill does not create an Impaired Practitioner’s Fund. Also, the bill does not include an initial application fee for telemedicine licensure or specify if the postgraduate osteopathic physician training license fee is renewable.

According to the Medical Board, the bill will more closely align rules and language of the Osteopathic Medicine Act with the Medical Practice Act.

**DUPLICATION, RELATIONSHIP**

SB 78 is an exact duplicate of HB 48 and amends the Osteopathic Medicine and Surgery Act. HB 102 creates a committee to review any proposed change to existing scope of practice rules, regulation of unregulated health professions, and establishment of licensing boards related to health professions. SB 267 amends the Medical Practice Act to include the definition of “collaboration,” or the process by which a physician and physican assistant jointly contribute to the health care and medical treatment of patients.

SL/jo/jle/al