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FISCAL IMPACT REPORT

SPONSOR Ferrary/Herrera/Cadena/Gallegos LAST UPDATED _____
ORIGINAL DATE 2/22/2023
BILL _____
SHORT TITLE Veterinarians as Health Care Practitioners NUMBER House Bill 452
ANALYST Tolman

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	No fiscal impact					

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)
Board of Veterinary Medicine
Medical Board

No Response Received

Department of Health (DOH)

SUMMARY

Synopsis of House Bill 452

HB452 Proposes to add veterinarian to definition of "health care practitioner" in Section 24-11-1 NMSA 1978, related to enforceability of a non-compete provision, in order to make certain provisions in health care practitioners agreements void, unenforceable and against public policy. HB452 seems to offer veterinarians the same protections as other health care providers related to the enforceability of a non-compete provision in an employment contract. Under New Mexico law, a provision in an agreement for clinical health care services to be rendered in this state is void, unenforceable and against public policy if the provision makes the agreement subject to the laws of another state or requires any litigation arising out of the agreement to be conducted in another state. Other health care practitioners included in the act under the definition of a "health care practitioner" are: dentists, osteopathic physicians, physicians, podiatrists, certified registered nurse anesthetists, certified nurse practitioners, and certified nurse-midwives.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023,

(90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

The Regulation and Licensing Department (RLD), Board of Veterinary Medicine, and Medical Board stated that they anticipated that the enactment of this bill would have no fiscal impact.

SIGNIFICANT ISSUES

The Board of Veterinary Medicine noted that HB452 is related to employment and is intended to make non-compete clauses in employment contracts for veterinarians void, unenforceable, and against public policy. The bill accomplishes this by including veterinarians in the definition of “health care practitioner” in Section 24-1I-1 NMSA 1978.

According to the American Association of Veterinary State Boards, member boards do not have any restrictions specific to veterinary medicine, but some state jurisdictions do have limits on non-compete agreements. Three states—California, North Dakota, and Oklahoma—ban noncompetes altogether for employees. In 2018, a new Massachusetts law took effect that prohibits noncompete agreements for low-wage workers and limits the length of the agreement to 12 months, which the Massachusetts Veterinary Medicine Association supported. In July 2021, President Joe Biden issued an executive order on promoting competition that included encouraging the FTC “to curtail the unfair use of non-compete clauses and other clauses or agreements that may unfairly limit worker mobility.”

A 2022 Mars Veterinary Health survey estimated a shortage of nearly 15 thousand veterinarians will likely exist by 2030. The state of New Mexico does not have any colleges of veterinary medicine and the nearest ones are Colorado State University, Midwestern University in Arizona, Texas A&M University, and Texas Tech University.

The Board of Veterinary Medicine cited that New Mexico, like much of the country, is experiencing a shortage of licensed veterinarians. One factor cited by the board that many veterinarians in New Mexico face is non-compete clauses in their employment contracts. If a veterinarian leaves their employment and their contract contains a non-compete clause, they are limited to where they may practice based on that non-compete clause, and many could choose to go to another jurisdiction to practice and leave New Mexico.

RT/al/ne