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| <b>LFC Requester:</b> | <b>Ginger Anderson</b> |
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**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)

*and*

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*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*  
**Original**        **Amendment**      
**Correction**        **Substitute**   

**Date** January 20, 2024  
**Bill No:** SB 44

**Sponsor:** Gerald Ortiz y Pino  
**Short**    Health Care  
**Title:**    Licensing Changes

**Agency Name and Code**    Regulation and Licensing - 420  
**Number:** \_\_\_\_\_  
**Person Writing**    Carrie Cochran  
**Phone:** 505-462-4612    **Email** Carrie.cochran@rld.nm.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

| Appropriation |               | Recurring or Nonrecurring | Fund Affected |
|---------------|---------------|---------------------------|---------------|
| FY25          | FY26          |                           |               |
| None in bill. | None in bill. |                           |               |

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

| Estimated Revenue |      |      | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------|---------------|
| FY24              | FY25 | FY26 |                           |               |
|                   |      |      |                           |               |

|          |          |          |                        |   |
|----------|----------|----------|------------------------|---|
| (3,014+) | (3,000+) | (3,000+) | Recurring through FY34 | General fund and multiple funds designated for individual licensing boards, commissions and agencies/ departments |
|          |          |          |                        |   |

(Parenthesis ( ) Indicate Expenditure Decreases)

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

|              | FY24   | FY25   | FY26   | 3 Year Total Cost  | Recurring or Nonrecurring  | Fund Affected   |
|--------------|--------|--|--|--|----------------------------|---|
| <b>Total</b> | 11,000 | Unclear (see “Fiscal Implications” section below). | Unclear (see “Fiscal Implications” section below). | 11,000 +<br>Unclear (see “Fiscal Implications” section below). | Recurring and Nonrecurring | General fund and multiple funds designated for individual licensing boards, commissions and agencies/ departments |
|              | 14     |  |  | 14   | Nonrecurring               | General Fund  |

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act:

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: Senate Bill 44 (SB 44)

SB 44 gives the Regulation and Licensing Department (RLD) the authority to compensate members of health care professional licensing boards that are administratively attached to the RLD. SB 44 authorizes the RLD to compensate board members for time spent carrying out the duties of a board member under the following health care acts:

- The Optometry Act, Section 61, Article 2 NMSA
- The Chiropractic Physician Practice Act, Section 61, Article 4 NMSA
- The Dental Health Care Act, Section 61, Article 5A NMSA

The Nutrition and Dietetics Practice Act, Section 61, Article 7A NMSA  
The Professional Psychologist Act, Section 61, Article 9 NMSA  
The Counseling and Therapy Practice Act, Section 61, Article 9A NMSA  
The Pharmacy Act, Section 61, Article 11 NMSA  
The Occupational Therapy Act, Section 61, Article 12A NMSA  
The Respiratory Care Act, Section 61, Article 12B NMSA  
The Massage Therapy Practice Act, Section 61, Article 12C NMSA  
The Physical Therapy Practice Act, Section 61, Article 12D NMSA  
The Acupuncture and Oriental Medicine Practice Act, Section 61, Article 14A NMSA  
The Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act, Section 61, Article 14B NMSA  
The Athletic Trainer Practice Act, Section 61, Article 14D NMSA

SB 44 also requires that the RLD waive application, licensure, and renewal fees for new applicants seeking licensure for the aforementioned professions beginning July 1, 2024, through July 1, 2034, with the exception of the Dental Health Care Act, Section 61, Article 5A NMSA.

### **FISCAL IMPLICATIONS**

The Boards & Commissions Division of the RLD operates from funds generated by application, licensure, renewal, and other administrative fees. SB 44 authorizes the RLD to compensate board members for their service on boards and commissions that are administratively attached to the RLD, but also eliminates significant sources of revenue for those boards and commissions.

The RLD implemented a new licensing software program in 2023 for applicants and licensees to apply and renew licenses online via a Salesforce-based licensing system now known as NMPlus. This now-active software has been specifically built for each license type for every board and commission administratively attached to the RLD, to include all fees associated with licensure, renewal, and other administrative fees. Any time the software requires changes, such as the waiver of licensure and renewal fees, the RLD incurs costs for making those changes to the NMPlus software. Amongst the health professions regulated by the RLD, there are approximately seventy-five (75) license types that would each require making costly changes to the NMPlus system. Such changes to the NMPlus licensing system are known as “enhancements.”

An “enhancement” is a change that the software developers must make to the Salesforce-based software to ensure that the licensing software is functional for the application, licensure and renewal process. Projections for the need for an appropriation of eleven million dollars (\$11,000,000) to make those enhancements to the NMPlus licensing system are derived from the cost of other recent and ongoing enhancements that have been made to the system multiplied by the number of boards and commissions that will be required to have their existing licensing systems enhanced. Currently, the *Salesforce* developers under contract with the State of New Mexico charge the RLD approximately one hundred and fifty thousand dollars (\$150,000) per “enhancement.” In order for the developers to make the necessary software changes for new applicants to bypass the payment of required application, licensure, and future renewal fees, the developers of the *Salesforce* software would have to make changes to the software for each license type included in SB 44. As mentioned above, SB 44 encompasses seventy-five (75) separate license types that would each require an enhancement. The cost per enhancement of one hundred and fifty thousand dollars (\$150,000) for all seventy-five (75) license types is eleven million dollars (\$11,000,000). That eleven million dollars (\$11,000,000) would be required to cover the costs for modifications to the NMPlus system that would be necessitated by SB 44.

With the implementation of the NMPlus licensing system, the RLD now has the capability to compile data, including the amount of revenue generated by fees for application, licensure, and renewal fees for each health care licensing profession. The data for FY23 shows that the health care professional licensing boards generated approximately three million dollars (\$3,000,000.00) in revenue from application, licensure, and renewal fees during FY23. If SB 44 were enacted, the RLD would expect a loss to the General Fund and/or the individual non-reverting funds of the impacted boards and commissions of no less than three million dollars (\$3,000,000) per fiscal year in application, licensure, and renewal fees for fiscal years 2024 through 2034. To the extent that those fee funds have previously been the source of funding for the operations of the individual boards and commissions that will be impacted, as well as the operations of the RLD as the department providing staffing and other administrative support services to those boards and commissions as entities administratively attached to the RLD, there is a distinct potential that up to three million dollars (\$3,000,000) per fiscal year will be required to be appropriated from the General Fund to cover the operations expenses of those boards, commissions and the Department (2025 through 2034).

SB 44 would also require that each health professional licensing board have a rule hearing to implement the statutory changes into rule. This is necessary because each board currently has administrative rules that reflect the statutory requirements for application, licensure, and renewal, and include the associated fees. Each such rulemaking hearing costs the RLD, on average, one thousand dollars (\$1,000.00). In order for the RLD to conduct rule hearings for fourteen (14) health professions to implement the aforementioned rule changes, fourteen thousand dollars (\$14,000.00) would be required to be appropriated from the general fund to recover the costs of these rule hearings.

In the event of the passage of SB 44, additional funds must be appropriated to compensate board members. The RLD is unable to project how much funding must be appropriated because the bill fails to specify the monetary amount that board members should be compensated. However, the fiscal impact would not arise until 2027, because the soonest effective date for any of the aforementioned health professional licensing boards regarding board member compensation is July 1, 2027.

### **SIGNIFICANT ISSUES**

SB 44 does not include health professionals licensed under the Social Work Practice Act, Section 61, Article 31 NMSA.

The effective date for the waiver of fees for the aforementioned health professional licensing is July 1, 2024. If SB 44 is passed, there is significant concern as to whether the RLD could make the necessary changes to the NMPlus system in time to remain in statutory compliance.

### **PERFORMANCE IMPLICATIONS**

SB 44 fails to address how much board members should be compensated. This could potentially set up a situation where the amount of compensation to be provided to individual board members could be addressed by each board, with the board members then deciding for themselves what they would be paid. (The Board of Respiratory Care would be an exception, as that is an advisory board only, without authority to take independent action.) The result could be great inconsistency amongst the boards regarding how much board members should be compensated and could result in disproportionate compensation.

**ADMINISTRATIVE IMPLICATIONS**

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

**TECHNICAL ISSUES**

**OTHER SUBSTANTIVE ISSUES**

**ALTERNATIVES**

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

**AMENDMENTS**