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FISCAL IMPACT REPORT

SPONSOR Jennings DATE TYPED 3-10-05 HB _____
 SHORT TITLE Patient Health Safety Act SB 381
 ANALYST Collard

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			See Narrative		

(Parenthesis () Indicate Expenditure Decreases)

Potentially conflicts with SB297, SB411, HB79, HB314, SB314, SB270, HB315 and HB308

SOURCES OF INFORMATION

LFC Files

Responses Received From

Health Policy Commission (HPC)
 Department of Health (DOH)
 Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

Senate Bill 381 establishes the Patient Health Safety Act that defines a procedure for the objective review of proposed changes in the scope of practice of health care professionals licensed by the state. The bill requires all state licensing boards to collect information on proposed changes to health professionals' licensing scopes of practice, conduct a technical assessment of the proposal for change to determine whether or not the proposed change is in the profession's current scope of practice, and provide analysis, conclusions and recommendations to HPC. The bill requires HPC to establish ad hoc advisory panels, with membership as specified in the bill, to review materials submitted by respective licensing boards and convene formal public hearings, with notice to the public and all interested parties. Each panel would be chaired by the director of HPC, who would be non-voting. The results of these reviews by HPC would be provided annually to Legislative Council Services, Legislative Finance Committee and Legislative Health and Human Services Committee as background for proposed statutory changes. HPC and each licensing board shall promulgate such rules as necessary to carry out the provisions of this act.

Significant Issues

DOH states the licensing boards of various health professions currently bring to the legislature recommendations for changes in scope of practice of their licensees. Legislators may not have readily available to them a thorough, professional and independent understanding of the health and economic implications of such recommendations on an individual basis. The scope of practice of a health profession may have significant impact on the quality, cost and geographic availability of health services.

Currently, when a scope of practice change is proposed the New Mexico Legislature must consider many complex issues in a very short period of time. Effective legislative decision-making is dependent on each legislator having access to balanced, thoroughly researched information. If the Legislature has limited information, legislators may be called upon to make decisions based on incomplete or contradictory data.

This bill seeks to assure that proposed scope of practice changes are adequately reviewed by an independent body prior to being submitted to the legislature for approval.

PERFORMANCE IMPLICATIONS

HPC indicates the performance impact to the commission is dependent on the complexity and the number of changes proposed in a given year. In addition to being named in this bill, the HPC is mentioned in at least three other 2005 bills and memorials as the lead agency or collaborative partner.

RLD indicates agency rulemaking performance relative to timely regulation implementation will be significantly impaired if the new panel extends the time frame for the rulemaking implementation process. The new panel will also interfere with the Legislature's traditional role in determining scopes of practice through the hearing process and the sunset process.

Agency performance measures, standards and the goals for efficient and expedient rulemaking deployment may not be met due to the new additional panel review process. RLD states, basically, the new process would create another layer of rulemaking review that does not add any additional information that already exists under the current rulemaking process.

The act will interfere with the performance-based measures of each board responsible for licensing health care professionals.

FISCAL IMPLICATIONS

There is no appropriation is contained in this bill.

HPC indicates the fiscal impact to the commission is dependent on the complexity and the number of changes proposed in a given year and other additional responsibilities. If the number and complexity of proposals increases over time, the HPC may require additional funding to provide administrative support, resources, and other logistical support.

RLD indicates the boards administered department would need additional staff to provide administrative support for the added regulatory burden. Additionally, RLD indicates the ad hoc review

panel members would incur per diem and mileage expenses; however payment of per diem and mileage is not addressed in the bill.

ADMINISTRATIVE IMPLICATIONS

RLD notes the bill provides that HPC and each licensing board promulgate rules necessary to carry out the provisions of the Patient Health Safety Act, which will require staff time. Also, additional agency resources would be needed or diverted to comply with the new panel review process. In addition, new required liaison and interface with the new panel may require additional human and financial resources.

CONFLICT

While Senate Bill 381 has no direct relationship with other bills, its passage could potentially conflict with proposed changes in Senate Bill 297 – Circumstances for Physician Licensure; Senate Bill 411 – Amend Chiropractic Physicians Practice Act; House Bill 79 – Expand Occupational Therapy Board; House Bill 314 – Counseling and Therapy Licenses and Practice; Senate Bill 270 – Social Workers License Requirements; House Bill 315 – Social Workers License Requirements; and House Bill 308 – Speech and Language Pathology Scope of Practice.

TECHNICAL ISSUES

DOH notes it would be helpful to define and limit the scope of the phrase “each professional association and group of health professions” (*See*, page 5 lines 17 –18). This phrase could be interpreted broadly as to include national associations, statewide associations and local associations (i.e., American Medical Association; New Mexico Medical Society; and, Bernalillo County Medical Society) while local, state and national groups could be contacted.

OTHER SUBSTANTIVE ISSUES

DOH indicates this bill incorporates many of the recommendations of a previous workgroup convened several years ago by HPC. If enacted, the bill would create a rational procedure for evaluating the many proposed changes in the scope of practice laws covering health professions in New Mexico, contributing to the overall health status of New Mexicans.

Currently in New Mexico, scope of practice policy is established by statute in the relevant health profession-licensing act that is specific to each health profession. There are 19 health professional licensing acts and boards, and within each, multiple health professionals may be separately addressed. If enacted, the bill would create a structured procedure for evaluating the many proposed changes in the scope of practice laws covering health professions in New Mexico. Rapid changes in professional education and training, technologies and methodologies, and the health care delivery system continuously create a need for scope of practice changes.

HPC indicates there are at least 19 health profession licensing acts and boards in New Mexico and within each statute, multiple scopes of practice. The scope of practice of a health profession may have a significant impact on the quality, cost and geographic availability of health services. Rapid changes in such areas as professional education and training, treatment technologies and methodologies, reimbursement, cost containment and the health care delivery structure can also impact the demand for and complexity of scope of practice changes.

The proposed process uses available the technical expertise within the licensing boards combined with assessment by an independent review panel that will offer legislators more complete information upon which to base their decisions.

HPC research also shows a recent public hearing on workforce and licensing and credentialing issues that affect behavioral healthcare practitioners resulted in the following comments:

- A few boards make too many changes too often to their rules and/or requirements for licensure that are confusing and frustrating, and create barriers for professionals trying to renew or apply for licenses.
- There is no apparent standardization in process and expectations between boards. For those holding multiple licenses, it can be a frustrating and confusing ordeal.
- In some boards, the rules or regulations are too rigid. In others, there could be stronger rules for licensure.
- While knowledgeable staff and information were good for some boards, both were sorely lacking in others.

HPC notes boards tend to work autonomously and do not regularly meet as a group to network, strategize, and share information with each other even though they may share some of the same clients.

RLD again indicates the new regulatory process and panel review adds another bureaucratic layer that may actually delay the timely implementation of public protection or safety regulations as well as those initiated by the industries to improve the regulatory environment.

RLD cautions the panel could also make recommendations that may actually interfere with, rather than improve the health of the public, by creating scopes of practice that are inappropriate for a particular health profession. The panels, unlike the boards, will not be made up of as many experts in the field or have as much public input as the current system of boards and commissions provides. The panels will also be more vulnerable to control by special interests and lobbyists, giving them a place at the table. Such unintended consequences could put the agency's mission of balancing consumer protection with business and economic development out of balance.

RLD notes each health care licensing board already has in place a rulemaking process which is efficient, sensitive to the unique needs of its profession, fair and not overly burdensome. The process of fair and well-reasoned rulemaking should be imbedded within the reviewed as necessary in each agency.

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