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FISCAL IMPACT REPORT

ORIGINAL DATE 01/26/10

SPONSOR Bandy LAST UPDATED _____ HB 60

SHORT TITLE Malpractice Definition of Health Provider SB _____

ANALYST Hanika-Ortiz

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
	\$5.0-\$50.0	\$5.0-\$50.0	Recurring	PCF

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

Health Policy Commission (HPC)

Public Regulation Commission/Insurance Division (PRC)

Medical Board (MB)

SUMMARY

Synopsis of Bill

House Bill 60 amends the definition of “health care provider” as used in the Medical Malpractice Act to expand the scope of the Act to corporations, organizations, facilities and institutions “owned by a person” who is licensed or certified by the state to provide health care or professional services.

FISCAL IMPLICATIONS

PRC reports that these entities would become eligible for the protections provided by the Medical Malpractice Act and for participation in the Patients Compensation Fund (“PCF”).

Any health care provider that wants to participate in the PCF must pay a surcharge to the PRC Insurance Division. These surcharges are deposited into the PCF, which is used to pay claims for medical malpractice above \$200 thousand. The bill would result in additional surcharges being collected and deposited into the PCF.

SIGNIFICANT ISSUES

The bill would allow any corporation, organization, facility, or institution owned by a licensed or certified doctor of medicine, hospital, outpatient health care facility, doctor of osteopathy, chiropractor, podiatrist, nurse anesthetist or physician-assistant into the PCF regardless of the type of business performed.

PERFORMANCE IMPLICATIONS

The Superintendent of Insurance would be required to accept surcharges from these corporate entities.

OTHER SUBSTANTIVE ISSUES

PRC clarifies that the definition of “health care provider” is the subject of on-going litigation between the Superintendent of Insurance and several individual doctors and a medical malpractice insurer in District Court in Curry County. Based on the mutual agreement of the parties, the Insurance Division is presently accepting surcharges from corporations owned by licensed doctors, doctors of osteopathy, chiropractors, podiatrists, nurse anesthetists, and physician’s assistants until the resolution of the lawsuit.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The MB believes that not enacting the bill could adversely impact physicians, whether as an incorporated or as an unincorporated provider, and the protections afforded under the Medical Malpractice Act.

AMENDMENTS

PRC proposes the following amendment:

Section 1. Section 41-5-3 NMSA 1978 (being Laws 1976, Chapter, Section 3, as amended) is amended to read:

“41-5-3. DEFINITIONS.—As used in the Medical Malpractice Act:

A. “health care provider” means a person, corporation, organization, facility or institution licensed or certified by this state to provide health care or professional services as a doctor of medicine, hospital, outpatient health care facility, doctor of osteopathy, chiropractor, podiatrist, nurse anesthetist or physician’s assistant. The definition of “health care provider” includes any professional corporation, professional association, or other business entity that provides health care services and is owned or operated by at least one licensed or certified doctor of medicine, hospital, outpatient health care facility, doctor of osteopathy, chiropractor, podiatrist, nurse anesthetist or physician’s assistant;

AHO/mt