

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 1/23/19
 LAST UPDATED 2/12/19 HB _____

SPONSOR SJC

SHORT TITLE Safe Harbor for Nurses Act SB 82/SJCS

ANALYST Chenier

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY19 | FY20 | FY21 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|------|------|----------------------|------------------------------|------------------|
| Total | | NFI | | | | |

(Parenthesis () Indicate Expenditure Decreases)

Relates to SJM13 from the 2017 regular session.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Board of Nursing (BON)

Department of Health (DOH)

No responses received for Committee Substitute

SUMMARY

Synopsis of Bill

Senate Judiciary Committee Substitute for Senate Bill 82 would enact the Safe Harbor for Nurses Act requiring healthcare facilities to develop processes by which nurses may invoke safe harbor when given an assignment where the nurse believes they lack the knowledge, skills, or abilities to deliver the minimum standard of care and may violate the Nurse Practice Act. Nurses may also invoke safe harbor when they question the reasonableness of another healthcare provider's order that the nurse is required to execute. Safe harbor must be invoked before the nurse engages in the act that requires safe harbor be invoked. Healthcare facilities would be prohibited from retaliating, demoting, suspending, terminating, disciplining, discriminating against, or reporting any action to the Board of Nursing when a nurse makes a good faith request for safe harbor.

FISCAL IMPLICATIONS

In updated analysis, BON said as the bill was introduced, there is no explicitly indicated fiscal implications for the board of nursing.

The DOH Division of Health Improvement could have to handle any potential complaints related to patient care in licensed health care facilities, although the impact is difficult to estimate.

SIGNIFICANT ISSUES

BON said that while the bill prohibits a facility from reporting a nurse who violates the Nursing Practice Act while invoking safe harbor, the bill does not prevent the Board from investigating and disciplining a nurse who is reported by another person or entity. For example, a patient or patient’s family who are dissatisfied with a health care outcome may report a nurse to the Board for an alleged unprofessional or incompetent conduct.

Senate Joint Memorial 13 from the 2017 Legislative Session requested that the Board of Nursing convene a safe harbor for nurses task force to identify promising nursing peer review models to protect patients from violation of their rights to safe patient care in accordance with their caregivers’ professional standards and to protect nurses from retaliation for invoking their duties to patients. The joint memorial said that the State of Texas has a safe harbor peer review law that defines a nurses “duty to a patient”, allows for a process for peer review of a safe harbor claim, and requires the recommendation of a peer review committee be considered by an employer prior to disciplinary action.

DOH said that health facilities run by DOH that employ nurses will have to implement and operationalize provisions in the bill. There could be labor issues created by employees who refuse to perform assigned duties pursuant to this Act.

The Agency for Healthcare Research and Quality offers the evidence-based program Strategies and Tools to Enhance Performance and Patient Safety (STEPPS), that encourages health care facilities to develop a process by which a nurse employed or contracted by the facility may invoke safe harbor. The STEPPS program is considered a best practice regarding patient safety.

PERFORMANCE IMPLICATIONS

BON said there may be a reduction in complaints received by the board because facilities are prohibited from reporting certain matters to the board. The safe harbor process may also foster communication between nurses and employers about patient safety and reduce the number of other complaints received by the board of nursing.

EC/gb