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FISCAL IMPACT REPORT

SPONSOR Soules ORIGINAL DATE 2/3/19
 LAST UPDATED 2/6/19 HB _____

SHORT TITLE Nursing Licensure & Board Composition SB 222/aSPAC

ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$75.0	\$75.0	\$150.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases) Note: Does not include costs if New Mexico were forced to leave the Interstate Nurse Licensing Compact.

Relates to and conflicts with 2018 Senate Bill 1

SOURCES OF INFORMATION

LFC Files
 Memorandum from Nurse Licensure Compact

Responses Received From
 Board of Nursing (BN)
 Human Services Department (HSD)

SUMMARY

Synopsis of Amendment

The SPAC amendment makes two changes in the bill,

- 1) Removing specification of who a qualified airway specialist must be, and
- 2) Striking the requirement (Section E of the original bill) that would require nursing faculty to have a license issued by the Board of Nursing and for the Board to create a special license for them.

Synopsis of Original Bill

Senate Bill 222 would make four discreet changes relative to nursing licensure and regulation in New Mexico:

- 1) Provide additional independent practice authorization for certified nurse anesthetists and provides for their more independent practice,
- 2) Remove participation of advisory volunteer BN members from procedures involving discipline of licensees,

- 3) Change the composition of the Nursing Board and
- 4) Change the terms of participation in the multi-state Nurse Licensure Compact.

It would do so through the actions detailed in the following sections:

Section	Provisions
1	Amends Section 61-3-6 NMSA 1978 (the part of the statutes dealing with Professional and Occupational Licenses/Nursing section of statute dealing with administering anesthetics by nurses) to allow nurses properly trained in providing sensation and in resuscitation techniques to administer sedation during a medical or surgical procedure, provided an airway specialist was readily available, and provided the nurse her/himself did not judge the procedure to be unsafe.
2	Amends Section 61-3-8 NMSA 1978, the part of the nursing section of statutes dealing with the Board of Nursing, to change its composition, specifying five licensed nurses, including <ol style="list-style-type: none"> 1) A nurse educator 2) A nurse knowledgeable about advanced practice nursing, 3) Preferably a licensed practical nurse. 4) As at present, the BN would also include two non-nurse, non-health professional members of the public.
3	Modifies Section 61-3-10 NMSA 1978 regarding the powers and duties of the BN to add the task of setting up an on-line registration system for nurse licensees to practice based on the multistate licensing compact at no cost to the licensee.
4	Modifies Section 61-3-14 NMSA 1978, which regards licensure and expedited licensure, adding several new provisions: <ol style="list-style-type: none"> 1) Licensees could opt to either receive a New Mexico license alone or a multi-state license, 2) Nursing faculty could obtain an expedited license solely for their nursing faculty duties, 3) RNs and LPNs practicing under multi-state licensure would be required to meet the same continuing education requirements as New Mexico-licensed nurses, and 4) 4) Nurses from other states possessing a multistate license would have to register with BN within 30 days of arrival.
5	Modifies Section 61-3-23.3 NMSA 1978 to allow for a more independent role for certified registered nurse anesthetists
6	Requires that the state take ownership of data generated by BN.
7	States that advisory and volunteer BN members cannot participate in licensee discipline determination.
8	Requires the BN to adopt any rule coming from the Intrestate Commission of Nurse Licensure before it would take effect in New Mexico
9	Require that Interstate Commission of Nurse Licensure agendas, minutes, rules, rulemaking records be filed with BN and be subject to New Mexico's Inspection of Public Records Act (IPRA).
10	Current nursing board members would serve out their terms
11	Act would be effective July 1, 2019.

FISCAL IMPLICATIONS

There is no appropriation. BN indicates that if the act made New Mexico no longer able to be a member of the Interstate Nurse Licensing Compact, it would require rapid licensure of as many as 1,500 nurses. If that occurred, it would need additional staff to do so. If that were worked out, the requirement that monitoring continuing nursing education for out-of-state nurses would, BN states, require one FTE licensing clerk at about \$50,000 salary plus benefits, and a \$25,000 registration computer system.

SIGNIFICANT ISSUES

The Board of Nursing states that

There are considerable amendments to the Nursing Practice Act proposed in SB222 that would result in NM falling out of compliance with the Nurse Licensure Compact (NLC), resulting in risk of being removed from the compact. This would result in approximately 500 Advanced Practice Registered Nurses not being able to use their NLC (multistate) license as the basis for their APRN licenses. Only after this was completed would these APRNs have the legal authority to practice as RNs or APRNs in NM. Additionally, an estimated 1,000 additional licenses were issued from September 2017 to January 2018 in anticipation of NM not enacting the eNLC...

While New Mexico can require whatever it deems necessary to become licensed as a New Mexico nurse, it cannot dictate the licensure requirements for an out of state nurse. NM would not want other state imposing licensure requirements on their NM nurses either. In order for nurses to move and practice freely under the compact, they cannot be burdened by different licensure requirements in every state. Under the Nursing Practice Act, nurses who practice in New Mexico from another state on a multistate license are held to the scope of practice for nurses in New Mexico. This language is in the NLC.

In the attached memorandum from the counsel to the Nurse Licensure Compact, concerns noted above by BN are amplified, stating that “member states may not take unilateral actions, such as the adoption of conflicting legislation...that violate the terms of a compact.”

Regarding the sections of the bill that apply to nurse anesthetists, HSD comments that “SB222 would allow more licensed individuals to obtain the training necessary to administer procedural sedation, so there could be a positive impact on timely access to this service for Medicaid beneficiaries. The potential increase in the number of providers or services provided is unknown; therefore, the Human Services Department (HSD) cannot calculate a fiscal impact. Medicaid rules allow for coverage of procedural sedation when administered within a provider’s scope of practice.”

RELATION to 2018 Senate Bill 1. During the 2018 session, the Legislature hurriedly passed Senate Bill 1, which was required to allow a large number of nurses primarily licensed in other states to continue their jobs here in New Mexico. Senate Bill 1, which was enacted (Laws, 2018, Ch 1), includes the provisions of the Interstate Compact, which in Article VIII specifies rulemaking methods, including public notice requirements, that would appear to conflict with some of the provisions of current Senate Bill 222.

ALTERNATIVES

Legislation might be enacted separately for the various components of the bill, separating out discreet portions.

LAC/gb/al/gb