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FISCAL IMPACT REPORT

SPONSOR Armstrong, G./Gallegos, DY **ORIGINAL DATE** 1/22/21
LAST UPDATED _____ **HB** 109
SHORT TITLE Nurse Practitioner Changes **SB** _____
ANALYST Klundt

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$5.0	\$10.0	\$10.0	\$25.0	Recurring	Board of Nursing Revenue Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Board of Nursing (BON)

SUMMARY

Synopsis of Bill

House Bill 109 (HB 109) expands the number of members of the Board of Nursing (BON) from seven to nine. The bill requires one member must be a licensed practical nurse and one member must be a licensed nurse with expertise in nursing education. HB109 also adds language that the three public members shall not be licensed health care professional in another health care profession.

HB109 also amends the authority of certified nurse practitioners to dispense drugs to their patients and removes the requirement of certified nurse practitioners and clinical nurse specialists to submit formularies to the Board of Nursing.

FISCAL IMPLICATIONS

There is no appropriation contained in this bill. BON reported this bill would increase additional yearly expenditures totaling approximately \$10 thousand per year. The Board noted these expenditures are due to the increased amount of travel, per diem, and training by the addition of two members. The Board of Nursing is funded by licensure revenues and therefore additional expenditures would also increase from this revenue source.

SIGNIFICANT ISSUES

The Board of Nursing reported:

“The bill proposes to increase the size of the board to nine members with six being licensed nurses and three members representing the public. The statutory mandate for the New Mexico Board of Nursing is to protect the public, not advocate for the profession of nursing. The first issue is that decreasing public representation on the board, proportionally. In addition, while the bill allows for representation of a licensed practical nurse and a nurse educator, the bill does not address other disproportionate representation. For instance, advanced practice nurses represent about 10 percent of all licensed nurses. There is nothing in this bill that assures representation of nurses who work in the hospital as front-line nurses in facilities or in community-based agencies. This bill would make it possible for the board to be composed of a licensed practical nurse and three nurses with a master’s degree in nursing and licensed as advanced practice registered nurses, which is not proportionate to the licensed nurse population. To decrease the risk inherent in boards with excess membership by market participants (North Carolina State Board of Dental Examiners v. Federal Trade Commission 135 S. Ct. 1101 (2015) as an example), if the Board of Nursing membership is increased by two positions to a total on nine, one new position should be filled by a nurse and the other new position should be filled a public member, making the distribution of board membership five nurses and four public members.

The current administrative code allows certified nurse practitioners (CNPs) to dispense medications. The language is as follows:

16.12.2.13N(5) (e) Labeling: CNPs may label only those drugs which the CNP prescribes and distributes to patients under the CNP’s care. The medication shall be properly labeled with the patient’s name, date of issue, drug name and strength, instructions for use, drug expiration date, number dispensed and name, address and telephone number of the CNP. Labeling may be handwritten or a pre-printed fill-in label may be used. All information shall be properly documented in the patient record.

16.12.2.13N(5)(g) CNPs may prescribe, provide samples of and dispense any dangerous drug to a patient where there is a valid practitioner-patient relationship as defined in 16.12.2.7 NMAC.

The primary issue with the change proposed in HB109 is that it would result in greater dispensing and distribution of controlled substances without the additional step of tracking of the controlled substance through a pharmacy. This is not in keeping with the mission of the New Mexico Board of Nursing.”