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FISCAL IMPACT REPORT

ORIGINAL DATE 02/16/17
 LAST UPDATED 03/06/17

SPONSOR Wirth HB _____

SHORT TITLE Message Therapy Practice Changes SB 275/aSPAC/aSJC/aSFI#1

ANALYST Amacher

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|---------|------|---------------------------------|-----------------------|
| FY17 | FY18 | FY19 | | |
| | (\$4.0) | | Nonrecurring | See Fiscal Impacts |

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Board of Nursing (BN)

Medical Board (MB)

Regulation & Licensing Department (RLD)

SUMMARY

Synopsis of Senate Floor Amendment #1

The Senate Floor Amendment number 1 strikes the phrase “an offense punishable by incarceration in a state penitentiary or federal prison” and replace it with “a crime that substantially relates to the qualifications, functions or duties of a massage therapist.” This amendment is made twice in the act; first relating to suspension, revocation and reinstatement of licenses and second relating to denial of license.

Synopsis of SJC Amendment

The Senate Judiciary Committee amendments to Senate Bill 275 expand the responsibilities of the message therapy board and continuing education requirements. Added to the board’s responsibilities of licensure is establishing a minimum curricula for instructor qualifications for hands-on massage therapy instruction. Furthermore, on the effective date of this 2017 act, a continuing education provider who is an individual actively registered in New Mexico as an independent massage therapy instructor, shall submit to the board a syllabus and one-time fee for any course not previously approved by the board.

Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendments provide conforming language to more appropriately refer to the message therapy work performed on “joints” as “structures”; and instead of “joints by manipulation” now “joint movement within the normal physiologic range of motion.” The SPAC amendments also makes clear the available options on the list of identified continuing education providers as being either a health care professional organization; *or* an accredited post-secondary educational institution.

Synopsis of the Bill

Senate Bill 275 as amended proposes changes to the Massage Therapy Practice Act with provisions for continuing education, clarifying licesensure for massage therapy instructors; and adding to the scope of practice of message therapists. Senate Bill 275 as amended, if enacted, becomes effective June 16, 2017.

FISCAL IMPLICATIONS

The Regulation and Licensing Department (RLD) indicates there would be a minimal dip in revenue by eliminating the registration and licensing of instructors. RLD estimates this decrease in revenue for FY18 to be \$4.0. This minimal decrease will have no significant impact on the operations of the message therapy board and can be absorbed.

SIGNIFICANT ISSUES

Senate Bill 275 as amended, changes the Massage Therapy Practice Act with the provisions for continuing education to include courses, seminars, workshops and classes by a continuing education provider. This bill defines a “continuing education provider” to include 1) an individual who was an active New Mexico registered independent massage therapy instructor on the effective date of this proposed legislation; 2) a massage therapy school; 3) a national or international professional association for massage therapists; 4) an individual/organization approved by a national or international massage therapy continuing education agency; 5) health care professional organizations; and 6) accredited post-secondary educational institutions.

As proposed, the message therapy board will provide for the qualifications of licensure for a massage therapist and message therapy schools. The board will also establish a minimum curriculum for massage therapy schools and provide for the issuance and revocation of the schools registrations.

SB 275 as amended outlines new material regarding a massage therapy school’s registration, renewal, suspension and revocation including denial of license; such provisions are consistent with the Uniform Licensing Act.

As defined by this bill, “scope of practice” means the practice of massage therapy is the assessment of the soft tissue and joints of the body and the treatment and prevention of physical dysfunction and pain of soft tissue and joints by manipulation to relieve pain or to develop, maintain, rehabilitate or augment physical function.

OTHER SUBSTANTIVE ISSUES

SB 275 as amended provides for continuing education, makes clear the scope of practice, and expands the responsibilities of the message therapy board. The changes proposed in this bill supports reciprocity for message therapy instruction so that New Mexico recognizes licensure of educators outside of the state resulting in greater opportunities statewide for qualified instruction for message therapists.

The Medical Board (MB) comments that while continuing education generally encompasses courses ensuring the practitioner is up to date, the proposed expansion of continuing education may go beyond this (see page 2, lines 1-18). The MB notes that the inclusions of business, insurance, and professional development are not traditionally included in the realm of practice specific continuing education.

The Board of Nursing (BN) noted several areas of concern regarding timelines, language, and the degree of standards by which a message therapist may become qualified. Beginning on page 8, line 15, the BN seeks clarification on the proposed 650 hours of education that includes at least 500 hours of instruction. Are all of the 650 hours classroom contract hours or is it a combination of hours? The BN comments that it is necessary to have a percentage benchmark that determines the passing grade on examination for licensure. The BN suggests that instead of renewing licenses on a biennial basis it may be more effective to renew based upon birth dates of the licensed therapists. The BN states agencies have proven that alignment of birth dates with the renewal period eliminates high peaks renewal periods which impacts inadequate licensing staffing personnel at the Board especially when they are short staffed.

Furthermore, the BN seeks clarification as to how many contact hours are required per each licensee renewal period. The BN points out there are no language related to a specific timeline when the licensee is required to take a refresher course. Additionally, the BN comments that the bill lacks specific set minimum standards of massage therapy programs and degree qualifications for the massage therapy instructors.

RLD notes that SB 275 closes a problematic loophole that unintentionally keeps revenue out of our state because it prevents New Mexico licensees from receiving massage continuing education (CE) credits for courses taught by certain instructors, if the instruction takes place within New Mexico. However, it allows a New Mexico licensee to receive credit for those same courses taught by the same instructors if the course is taught *outside* of New Mexico.

RLD recommends clarifying language specifying that the approval of a CE provider as grandfathered in under the provisions in SB 275 be for only coursework that had previously submitted to the board. Any future changes in course offering would require the grandfathered instructor to file a new application as an “individual” as provided in Section 7(D) or is approved by one of the entities defined in Section 1(C).

RLD requests that the individual CE provider be listed in Section 1(C) for consistency with the definition as proposed in Section 7(D); and that the board’s approval for an individual CE be limited to two years.