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FISCAL IMPACT REPORT

ORIGINAL DATE 2/15/17
 SPONSOR Padilla LAST UPDATED 3/10/17 HB _____
 SHORT TITLE Physician and Assistant Collaboration SB 355/aSPAC
 ANALYST Chilton/Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to House Bill 215, and is similar in many respects. The Committee substitute for House Bill 215 is identical to SB 355 as introduced.

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Medical Board (MB; to HB 215)
 Regulation and Licensing Department (RLD)

Response Not Received From

Department of Health (DOH)

SUMMARY

Synopsis of SPAC Amendments

The Senate Public Affairs Committee amendments to Senate Bill 355 clarify in Section 1 that a physician assistant may provide services to patients either with the supervision of or in collaboration with a licensed physician as allowed by rules promulgated by the New Mexico Medical Board. The amendments specify these rules are to be promulgated by that board under the Physician Assistant Act, and must require that a specialty care (to be defined by the board) physician assistant be supervised by a licensed physician, but may allow a primary care (to be defined by the board) physician assistant to collaborate with a licensed physician in accordance with requirements established by the board for different practice settings. The amendments clarify the malpractice liability insurance requirement described in Section 6(B) is a minimum requirement, and make grammatical and process corrections that do not affect the substance of the bill.

Synopsis of Original Bill

Senate Bill 355 amends Section 61-6-6 NMSA 1978 to offer alternatives in the relationship between a physician assistant and a physician from the current model – supervisee to supervisor (the current model) – or a collaborative model.

SB 355, in Section 1, defines collaboration as a process wherein both collaborators contribute to the treatment of patients, each doing what he/she is licensed to do. The collaboration would be continuous, but would not require the presence of both physician and physician assistant in the same location.

In Section 2C, language in Section 61-6-7 NMSA 1978 would be amended to remove the requirement that a physician register a supervising physician, and this is echoed by the elimination of subsections G and H of the statute. However Senate Bill 355 would require that a physician assistant not practice medicine until a supervisory or collaborative relation was established.

In Section 2C, physician assistants would be permitted to prescribe dangerous drugs, other than Schedule I drugs.

In Section 4 of the bill, “supervising” and “supervision” are replaced with “supervising or collaborating” and “supervision or collaboration” in Section 61-6-10 NMSA 1978. Subsection 4C indicates that “Physician assistants are responsible for the care they provide.” Only if the physician assistant were acting on the specific instructions of the physician would that physician be liable for the care provided by the physician assistant.

In Section 6 of the bill, new material is added regarding medical malpractice insurance, allowing a collaborative relationship with a licensed physician after three years of supervision by a licensed physician and requiring physician assistants practicing in the collaborative mode to carry malpractice liability insurance.

Section 61-6-19 NMSA 1978 would remove language regarding supervising physician and eliminate the fee associated with changing supervising physician or specifying a collaborating physician.

FISCAL IMPLICATIONS

None.

SIGNIFICANT ISSUES

With respect to the original House Bill 215, the Medical Board expressed concern that the term “collaboration” was not defined and that collaborating physicians would be legally liable if errors occurred (the current bill and the committee substitute for House Bill 215 address these issues; the two bills are now identical. Further, the MB noted that physician assistants differ in their skill levels, such that their ability to practice relatively independently would increase as time went on, in the same way that physicians gain skills through a closely supervised residency program. MB suggested the possibility that a two-tiered approach, wherein newly graduated physician assistants would be “supervised” for three years and then would qualify for a collaborative approach. MB suggests that once they reached the collaborative stage, liability for their actions would become their own responsibility. MB noted further that a two-tiered

approach might work best in New Mexico, where physician assistants often practice in rural or frontier locations far from other medical care. Senate Bill 355 would allow the Medical Board to establish the parameters of a two-tiered system. Throughout the bill, therefore, the terms “collaboration” and “supervision” or “collaborating” and “supervising” are placed in parallel to allow for either model.

The American Academy of Physician Assistants states that “It is the obligation of each team of physician(s) and PA(s) to ensure that the PA’s scope of practice is identified and appropriate to the PA’s skill, education and training, and that the relationship with, and access to, the collaborating physician(s) is defined.”

Michigan is among states that have recently moved away from a “supervisory” model to what is called in enacted 2016 legislation “joint participation: “participating physicians instead of supervising physicians better reflect the PA’s and physician's role within the team,” according to the AAPA. The Michigan legislation also removed physician liability for physician assistant care and granted physician assistants independent prescribing authority. The Michigan bill was supported by the Michigan State Medical Society and Michigan Osteopathic Association.

The American Academy of Physician Assistants considers “adaptable collaboration requirements” to be one of six key elements that “should be part of every state PA practice act.”

TECHNICAL ISSUES

The definition of “supervision” is not included, while “collaboration is defined.

The [United States Controlled Substances Act](#) includes tetrahydrocannabinol (THC, the main hallucinogenic component of marijuana) as a Schedule 1 drug; the bill states that New Mexico physician assistants would not be able to prescribe Schedule 1 drugs, and thus would not be able to prescribe medical marijuana.

IDENTICAL to the committee substitute for House Bill 215.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Physicians would continue to supervise physician assistants and there would be no choice of a collaborative relationship offered, and physicians would in some instances bear liability for errors in the care given by them.

LAC/jle/sb