

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

FISCAL IMPACT REPORT

| | |
|--|---|
| SPONSOR <u>HCEDC</u> | LAST UPDATED <u>2/27/23</u> |
| SHORT TITLE <u>Podiatry Licensure Changes</u> | ORIGINAL DATE <u>2/26/23</u> |
| | BILL NUMBER <u>CS/House Bill 83/HCEDCS</u> |
| | ANALYST <u>Anderson</u> |

REVENUE* (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|----------|----------|---------------------------|--|
| FY23 | FY24 | FY25 | | |
| No fiscal impact | (\$55.9) | (\$52.4) | Recurring | Regulation Licensing Department Podiatry Fund – fees and licensing |
| No fiscal impact | \$55.9 | \$52.4 | Recurring | Medical Board Podiatry Fund - fees and licensing |
| No fiscal impact | \$96.0 | | Biennial | Medical Board Podiatry Fund - fees and licensing |

Parentheses () indicate revenue increases.

*Amounts reflect most recent version of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

| | FY23 | FY24 | FY25 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|----------------------|------------------|--------|------|-------------------|---------------------------|---|
| Medical Board | No fiscal impact | \$10.0 | | | Nonrecurring | General Fund – Medical Board IT costs for licensing system update |

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent version of this legislation.

Relates to House Bill 201

Relates to appropriation in the General Appropriation Act

Sources of Information

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

Medical Board

SUMMARY

Synopsis of HCEDC Substitute for House Bill 83

The House Commerce and Economic Development Committee Substitute for House Bill 83 (HCEDCS/HB83) requires the New Mexico Medical Board to enforce and administer the Podiatry Act, changes the title of “podiatrist” to podiatric physician, conforms sections of the Podiatry Act, provides for the Medical Board fund to receive funds collected under the Podiatry Act, creates a podiatry advisory committee, defines duties, and changes licensing reciprocity requirements for podiatrists. HCEDCS/HB83 also requires biennial podiatry licensure renewal, removes the taxation registration number requirement as a condition of license renewal, and adds a circumstance for a postgraduate education waiver while repealing sections of the Podiatry Act.

Section 1, parts A and B amend Section 61-6-5 NMSA 1978, Medical Board Duties and Powers, to add the Podiatry Act.

Section 2 part E amends Section 61-6-6 NMSA 1978, Medical Practice Act definitions to include podiatric physician.

Section 3, part A amends Section 61-6-15 NMSA 1978 adding podiatric physicians to the list of licensees who are managed by the Medical Board, outlining penalties for unprofessional and dishonorable conduct and reasons podiatry licenses may be refused, revoked, or suspended. The section provides procedures for podiatric physician practice after license suspension or revocation.

Section 4 amends Section 61-6-31 NMSA 1978 provides for the Medical Board fund to receive funds collected under the Podiatry Act. All funds received by the podiatry board and collected under the Podiatry Act shall be deposited with the state treasurer, who adds the amounts received to the New Mexico Medical Board fund. No amounts collected will reside with the Regulation and Licensing Department because they would no longer house the provisions of the Podiatry Act.

All money unused at the end of the fiscal year shall not revert, but shall remain in the fund for use in accordance with the provisions of the Podiatry Act.

Section 5 amends Section 61-8-2 NMSA 1978, the Podiatry Act, to revise definitions. It replaces podiatry board with Medical Board, defines the podiatry advisory committee, and defines podiatric physician as “a podiatric physician licenses under the Podiatry Act to practice podiatry in New Mexico.”

Section 6 amends Section 61-8-3 NMSA 1978 requires podiatric physicians to be licensed to legally practice in the state of New Mexico.

Section 7 amends Section 61-8-5 NMSA 1978 to create the Podiatry Advisory Committee which will advise the Medical Board regarding licensure of podiatric physicians and efforts to recruit and retain podiatric physicians practicing in the state. The section defines requirements for members of the advisory committee.

Section 8 amends Section 61-8-6 NMSA 1978 to add the powers and duties of the Podiatry

Advisory Committee to the Medical Board within the Podiatry Act, including the authority to promulgate rule for the examination as well as licensure of food and ankle radiation technologists. An initial license fee is not to exceed \$250 and renewal fees are not to exceed \$100 per year. Fingerprints or other biometric identification as well as “other information necessary for a state and national criminal background check as a condition for licensure” are requirements within Part 12 of this section.

Section 9 amends Section 61-8-8 NMSA 1978, the licensure qualifications for podiatric physicians. Amendments consist of changing the term “podiatrist” to “podiatric physician”.

Section 10 amends Section 61-8-9 NMSA 1978, reducing the required number of years of prior licensure before an applicant will be eligible for expedited podiatry licensure by reciprocity from five years to three years.

Sections 11 and 12 amend Section 61-8-10 NMSA 1978 regarding licensing fees and renewals increasing the application fee maximum from \$500 to \$600 and changing the renewal period for licensed podiatrists from annually to biennially (every two years) while increasing the renewal fee maximum from \$300 to \$600. Section 12 adds a public health emergency to qualify for a waiver of postgraduate study required by the board for license renewal.

Section 13 amends Section 61-8-11 NMSA 1978, part B regarding suspension, revocation, or refusal of licensing. Adding, “disqualifying criminal convictions as determined by the board,” further clarifying this means “a conviction for a crime that is related to the profession of podiatry.”

Section 14 amends Section 61-8-12 NMSA 1978 to add “podiatric physician” to offenses and penalties.

Section 15 amends Section 61-8-13 NMSA 1978, unprofessional conduct of a podiatric physician through use of false or misleading advertising. Section B, 2-5 are removed from statute, which included provisions of font styles in phone directories, time durations for publishing announcements about the openings of new offices, accompanying font style requirements for those specific announcements, the requirement to mail announcements about new office openings through the post, restrictions on the style of offices’ exterior signage, and requirements for podiatrists to “participate in public educational programs and campaigns in conjunction with a majority of other practicing podiatrists.”

Section 16 amends Section 61-8-14 NMSA 1978, limitations on temporary licensure to change the term “podiatrist” to “podiatric physician” in part A.

Section 17 amends Section 61-8-15 NMSA 1978, privileged communications, to update all instances of the term “podiatrist” to “podiatric physician.”

Section 18 declares the transfer of functions, personnel and property shall occur on July 1, 2023, including the functions, personnel, records, equipment, supplies and other property of the board of podiatry, which shall be transferred to the podiatry advisory committee. All money and appropriations of the board shall be transferred to the Medical Board fund.

Section 19 repeals Section 61-7-8 NMA 1978, *Disposition of funds, podiatry fund created;*

method of payments; bonds and Section 61-8-17 NMSA 1978, *Termination of agency life* of the Podiatry Act. This removes the sunset date of the board of podiatry.

This bill does not contain an effective date, and as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed.

FISCAL IMPLICATIONS

The podiatry board is self-sustaining and generates revenues from fees and licensing. RLD provided estimated revenues for FY24 based on an average of the revenue generated for the past three years. There are 146 Podiatrists licensed with the Board of Podiatry under the Regulation and Licensing Department.

HAFCS/HB2 appropriates \$55.9 thousand to the board of podiatry's FY24 operating budget. The Regulation and Licensing Department estimates the board's FY25 revenue will be \$52.4 thousand, which matches the board's FY23 operating budget. If the provisions of HCEDCS/HB83 are enacted, this funding would no longer reside within the budget of RLD's Boards and Commissions program- the balance would become part of the budget for the Medical Board.

The Medical Board responded:

For the first fiscal year, estimating a 10 percent increase from the current status, 160 Podiatrists would renew their licenses and bring in estimated revenues of \$96 thousand for the first year and \$96 thousand in the third year, as they would be on a bi-annual renewal.

There will be a cost to implement the additional license type into the new database (Salesforce), estimating a total expense of \$10 thousand. The NMMB would need an additional FTE to accommodate the additional licensees.

Currently the Board of Podiatry has a cash balance of \$50 thousand that would transfer to the NM Medical Board.

HCEDCS/HB83 adds a \$100 increase per podiatry license application while also changing the renewal fee maximum from \$300 to \$600 since licensing would be biennial instead of annual. Depending on the number of new podiatrists applying for licensure in the state, the licensing fee increase would have a minimal impact on board revenue, as 100 new licenses would bring in an additional \$1,000 per year.

The two-year license term may slightly impact revenue to the podiatry fund. Estimating any impact on revenue will depend, in part, on decisions made by the Board of Podiatry on license and renewal fees in response to the new license term. Revenue estimates are based on information provided by the Boards and Commissions Division of the Regulation and Licensing Department (RLD).

SIGNIFICANT ISSUES

HCEDCS/HB83 impacts whether Section 61-8-10(A)(5) NMSA 1978 should be revised considering the new two-year license period. Late fees of \$50 per month for two years, in addition to the reinstatement fee, will be greater than the current total reinstatement fees.

The Regulation and Licensing Department said the reduction in the years of prior licensure before an applicant will be eligible or expedited podiatry licensure by reciprocity could increase the number of podiatrists practicing in the state, while the increased fee maximum and reinstatement fees might discourage licensee applicants.

The New Mexico Medical Board is opposed to podiatric practitioners adding “physician” to their titles:

It is important that titles used by all health professionals be easily recognizable by patients and allowing podiatrists to use the term “podiatric physician” will only serve to further confuse the public.

Pursuant to the American Medical Association (AMA), the Definition of Physician is an “...individual who has received a “Doctor of Medicine” or “Doctor of Osteopathic Medicine” degree or an equivalent degree following successful completion of a prescribed course of study from a school of medicine or osteopathic medicine.”

Additionally, the New Mexico Medical Board looks forward to this collaborative relationship and hopes that the podiatrist community is generally in favor of moving to the NMMB.

RLD has responded regarding the definition of podiatrist within the Podiatry Act:

Under current law, the Podiatry Act refers to a podiatrist as a “physician and surgeon.” §61-8-2 NMSA 1978, Definitions, reads:

As used in the Podiatry Act:

C. "practice of podiatry" means engaging in that primary health care profession, the members of which examine, diagnose, treat and prevent by medical, surgical and biomechanical means ailments affecting the human foot and ankle and the structures governing their functions, but does not include amputation of the foot or the personal administration of a general anesthetic. A podiatrist, pursuant to the laws of this state, is defined as a physician and surgeon within the scope of his license.

RLD stated the term “podiatric physician” is nationally recognized, as is documented within the profession and under the federal definition.

A podiatrist is a Doctor of Podiatric Medicine (DPM), known also as a podiatric physician or surgeon, qualified by their education and training to diagnose and treat conditions affecting the foot, ankle and related structures of the leg.

When treating patients, this system is also known as the lower extremity. Podiatric physicians are uniquely qualified among medical professionals to treat the lower extremity based on their education, training and expertise. Podiatrists are defined as physicians by the federal government. [National Association of Colleges of Podiatric Medicine. Becoming a Podiatric Physician – The American Association of Colleges of Podiatric Medicine (AACPM).]

The Sunset/Sunrise Subcommittee met on August 16, 2022, to hear presentations from agencies scheduled to sunset in FY23. The subcommittee adopted the LFC staff recommendation to extend the sunset date of the podiatry board by six years, to July 1, 2029. The subcommittee supported RLD’s recommendation to change the board’s annual license renewal requirement to a two-year renewal cycle, like other boards, to increase efficiency in licensing, and requested LFC staff to determine if the two-year renewal cycle change would require separate legislation.

ADMINISTRATIVE IMPLICATIONS

The Board of Podiatry is administered through the Boards and Commissions Division of RLD. HCEDCS/HB83 requires the New Mexico Medical Board to enforce and administer the Podiatry Act. The Medical Board may require additional FTE to implement licensing renewal changes and could affect operating costs within the agency’s contractual category if system upgrades or maintenance are needed.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 201, the Sunset Omnibus Bill, proposes to extend the life of six boards pursuant to the provisions of the Sunset Act with periods of extension of six years. The bill also eliminates the sunset dates for four others. HB201 repeals the following “termination of agency life” statutory provisions as of the date of enactment of the bill, removing them from the New Mexico Sunset Act and making each no longer subject to periodic review, including Section 61-8-17 NMSA 1978- the Podiatry Act.

GA/ne/rl