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FISCAL IMPACT REPORT

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| SPONSOR <u> SHPAC </u> | LAST UPDATED <u> 03/06/2023 </u> | |
| | ORIGINAL DATE <u> 02/08/2023 </u> | |
| SHORT TITLE <u> Prescribing Psychologist Practice Act </u> | BILL NUMBER <u> CS/Senate Bill 117/SHPACS/aSJC </u> | |
| | ANALYST <u> Chilton </u> | |

REVENUE* (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|--------|--------|---------------------------|--------------------|
| FY23 | FY24 | FY25 | | |
| | \$46.5 | \$46.5 | Recurring | Medical Board Fund |

Parentheses () indicate revenue decreases.

*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 IT needs | | \$20.0 | | \$20.0 | Nonrecurring | Medical Board Fund |
| Medical Board Expenses:ongoing | | \$28.0 | \$28.0 | \$56.0 | Recurring | Medical Board Fund |
| Total | | \$48.0 | \$28.0 | \$76.0 | Mixed | Medical Board Fund |

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent version of this legislation.

Sources of Information

LFC Files

Responses Regarding the Original Bill Received From

Medical Board (MB)

Office of the Superintendent (OSI)

No Response Received

Department of Health (DOH)

Department of Workforce Solutions (WSD)

Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of SJC Amendment to SHPAC Substitute for Senate Bill 117

The SJC amendment makes two changes to the committee substitute:

- 1) The definition of “psychologist” is simplified to indicate only that the person has been licensed by the state Board of Pharmacy to practice psychology.

- 2) Instead of receiving a license to practice both as a psychologist and as a prescribing psychologist in the same action, the bill requires that to obtain a license as a prescribing psychologist, one must have a license to practice psychology.

Synopsis of SHPAC Substitute for Senate Bill 117

The Senate Health and Public Affairs Committee Substitute for Senate Bill 117 would change provisions in Section 61-9 NMSA 1978, allowing more psychologists to prescribe medications for their patients and establishing the conditions under which they can do so.

Section 1 of the bill names the “Prescribing Psychologist Practice Act.”

Section 2 establishes definitions used in the act, including defining “prescribing psychologist” as a licensed psychologist trained in psychopharmacology and authorized to prescribe and administer medication without charge; “prescribing psychologist with conditions (PPwC)” is defined as a licensed psychologist authorized to prescribe psychotropic medications under the act’s provisions; “psychotropic medication” is defined as a controlled or dangerous drug used in psychiatry to treat certain disorders only under a prescription.

Section 3 empowers the Medical Board to make rules for licensure, criteria for licensure, and renewal of licenses of prescribing psychologists and to establish means for discipline when needed for individuals alleged to be violating provisions in the act. It is to establish fees, which would be up to \$750 for a three-year prescribing psychologist license and up to \$100 for a two-year “prescribing psychologist with conditions” license.

Section 4 enables prescribing psychologists to administer oral or intramuscular medications, including the opiate antagonist naltrexone and antipsychotic medications, while PPwCs may do the same under supervision.

Section 5 establishes conditions under which a psychologist may apply to become a PPwC. These would include a current license, completion of at least 450 hours of instruction in relevant, specified fields, certification by supervising clinicians as having had sufficient experience under supervision, including at least 80 hours of practicum under the supervision of a licensed practitioner in treating at least one hundred patients with behavioral health disorders and has malpractice insurance. Supervising clinicians would not be liable for a PPwC’s errors unless the supervision itself were at fault.

Psychologists currently certified to prescribe medications by the New Mexico Board of Psychologist Examiners may apply to the Medical Board for an (unconditional) license as a prescribing psychologist if that person is licensed and has a prescription certificate and two years of prescribing psychotropic medication and meets other Medical Board requirements. In both cases, malpractice insurance is required. The MB would set continuing education requirements, limited to between twenty and twenty-five hours per year. MB would also set standards for denial, suspension or revocation of both types of license.

Section 6 states that a supervising clinician can supervise no more than four PPwCs at a time. It also states that either prescribing psychologists with or without conditions must collaborate with physicians caring for other aspects of a patient’s health care, though medications could be

prescribed or administered before such contact is made, but the primary practitioner must be notified within 24 hours. If the patient has no established general medical care provider, arrangement should be made for the patient to have a visit with one within sixty days.

Section 7 authorizes MB to issue licenses to prescribing psychologists and PPwCs, to be renewed every three years. These licenses include the license to practice psychology.

Section 8 establishes an unpaid “prescribing psychologist advisory council” to advise MB on such matters as licensure, continuing education, and discipline. A six-member board is specified, four members of which would be prescribing psychologists and two would be physicians.

Section 9 enables nurse practitioners and nurse specialists to supervise psychologists in prescribing psychotropic medications.

Section 10 of the bill amends Section 61-6-5 NMSA 1978 regarding MB duties and powers, adding the Prescribing Psychologist Practice Act to the list of other acts overseen by MB, and section 11 adds “prescribing psychologist” to the definition of “licensee” or “health care practitioner.”

Section 12 applies conditions within Section 61-6-15 NMSA 1978 under which MB may discipline, censure, reprimand, suspend or revoke the license of a provider (to include prescribing psychologists and PPwCs), making a grammatical change in the long list of conditions.

Section 13 adds this act to the list of acts for which funds collected are to be deposited with the state treasurer into the MB fund.

Section 14 removes previous definitions of “conditional prescription certificate”, “independently licensed prescribing clinician”, “prescribing psychologist”, “prescription certificate,” “psychotropic medication and “supervising clinician” from the definition section (Section 61-9-3 NMSA 1978) of the Professional Psychologist Act.

Section 15 amends Section 61-9-10 NMSA 1978 to remove the term “prescribing psychologist” from the list of persons for whom expedited licensure can be granted.

Section 16 of the bill deletes the following sections of Section 16 NMSA 1978

| Section | Title and relevant parts |
|-----------|--|
| 61-9-17 | <p>Drugs; medicines. A. Except as provided in Subsections B and C of this section, psychologists or psychologist associates shall not administer or prescribe drugs or medicine or in any manner engage in the practice of medicine as defined by the laws of this state.</p> <p>B. A licensed psychologist holding a conditional prescription certificate may prescribe psychotropic medication under the supervision of a supervising clinician pursuant to the Professional Psychologist Act.</p> <p>C. A prescribing psychologist may prescribe psychotropic medication pursuant to the Professional Psychologist Act.</p> |
| 61-9-17.1 | Conditional prescription certificate and criteria and provisions for obtaining it under board rules |
| 61-9-17.2 | Psychologist prescribing practices |

Section 17 establishes the effective date of the act as July 1, 2024.

FISCAL IMPLICATIONS

There is no appropriation in Senate Bill 117.

MB makes the following estimates of revenue and cost of these regulations, as follows:

Currently there are 14 Conditional Prescription Psychologists and 56 Unrestricted Prescription Psychologists licensed with the Board of Psychologist Examiners under the Regulation and Licensing Department. For the first fiscal year, estimating a 10 percent increase from the current status, 15 Conditional Prescription Psychologists would renew their licenses and bring in estimated revenues of \$1,500 for the first year and \$1,500 in the third year. For the first fiscal year, estimating a 10 percent increase from the current status, 62 Unrestricted Prescription Psychologists would renew their licenses and bring in estimated revenues of \$46,500 for the first year. (This is estimating an increase in psychologists that would like to prescribe.)

There will be a cost to implement the additional license types into the new database (Sales Force), estimating a total expense of \$20,000. We also will need a .5 full time employee to process the work that will come from the additional licensees, estimating a total expense of \$28,000.

It is possible that these expenditures at MB will be balanced by a decrease in need at RLD, which is home to the Board of Pharmacy and the Board of Psychology.

SIGNIFICANT ISSUES

MB comments that it believes it to be more appropriate for prescribing psychologists be licensed under MB or be licensed under both MB and the Board of Psychologists in that the providers on MB are more acquainted with medications and prescriptions than the Board of Psychologists can be, but it appears that the substituted bill mandates that a prescribing psychologist would only be subject to the Medical Board, for both the license to practice psychology and to be a prescribing psychologist. It appears as if the SJC amendment resolves this issue, requiring a psychology license from the Board of Psychologists and a prescribing psychologist license from the Medical Board.

TECHNICAL ISSUES

MB makes the following suggestions for clarification:

- Page 14, item B1: the physician member of the advisory council protocol seems complicated and may be difficult to fulfill. Appointment of the physician representative should be by the board with the advice of the psychologists and the medical society. It is conceivable that the medical society and psychologists' organization may not agree on a candidate.
- Page 15, Section 9B. The NMMB does not have any authority to issue rules for nurse practitioners. The statute may need to be amended to add a requirement to the nursing practice act to require supervising nurse practitioners to work with the NMMB to provide

the supervision and meet the documentation requirements of this act.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Psychologists, including prescribing pharmacists, will not be licensed to prescribe through the Medical Board.

LAC/rl/ne/al