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FISCAL IMPACT REPORT

SPONSOR: Picraux DATE TYPED: 03/11/01 HB 337/aHCPAC/aHAFC/aSJC
 SHORT TITLE: Amend Nursing Practice Act SB _____
 ANALYST: Carrillo

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		See Narrative			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files
 Board of Nursing
 Board of Medical Examiners
 Health Policy Commission

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary committee amendment to House Bill 337/aa changes the penalties and violations references from felony to misdemeanor.

The remainder of the FIR is unchanged.

Synopsis of HAFC Amendment

The House Appropriation and Finance Committee’s amendment to House Bill 337/aHCPAC removes the word “sworn” from the provisions addressing complaints filed in disciplinary actions.

Synopsis of the HCPAC Amendment

The HCPAC amendment to House Bill 337 addresses concerns raised by the Board of Nursing and the Board of Medical Examiners (see the Conflict/Relationship and Amendments sections).

The remainder of the FIR is unchanged.

Synopsis of Original Bill

House Bill 337 proposes to amend the Nurse Practice Act to include provisions for:

- Practice expansion of certified nurse practitioners and certified registered nurse anesthetists;
- Increased fees;

- Approval of hemodialysis technician training programs and certified medication aides programs;
- Criminal background checks;
- Temporary licensing of nurses; and
- Consent of diversion program participants for file information and penalties.

Significant Issues

Specifically, HB337 includes the following amendments:

- Inclusion of hemodialysis technicians and medication aids in the purpose of the act.
- Definition of “emergency procedures” under the act.
- Restrictions on the definitions of “licenses practical nursing”, “practice of nursing” and “professional registered nursing”.
- Restrictions on the use of the professional title of “nurse.”
- Changes the renewal date from date of birth to date of certification under the act.
- Board authority to increase hemodialysis and medication aid training program fees for:
 - Initial review and approval of a training program
 - Subsequent review and approval of a training program
 - Evaluation of training program
- Establishes that training programs shall, through contract, pay the board for administrative and other costs associated with oversight of the program.
- Provisions for criminal background checks by the board on registered nurses and licensed practical nurses prior to consideration for licensure at the expense of the applicant.
- Establishes that certified nurse practitioners may:
 - Practice independently and distribute dangerous drugs and controlled substances.
 - Serve as primary acute, chronic long-term and end-of-life health providers and as necessary collaborate with allopathic and osteopathic physicians or podiatrists.
- Broadens the preexisting definition of “prescriptive authority” in regard to certified nurse practitioners and certified registered nurse anesthetist.
- Broadens accepted credentialing for nurse anesthetist.
- Eliminates the requirement that nurse anesthetist must practice under the direction of a physician dentist or podiatrist.
- Authorizes certified registered nurse anesthetist to prescribe, administer and distribute therapeutic measures including dangerous drugs and controlled substances within their work environment and establishes a formulary.
- Changes continuing education verification period from five to two years.
- Establishes that files of nurses in the diversion program shall be kept confidential except with written consent of a nurse or when used for research purposes with identifiers.
- Changes criminal penalties for violations of the nursing practice act from a misdemeanor to a fourth degree felony.
- Establishes temporary licensure status for a period not to exceed six months.

FISCAL IMPLICATIONS

HB337 proposes to increase the fees for the hemodialysis and the medications aides training programs. The proposed changes are illustrated below:

Training Program	Current Fee	Proposed Fee
Hemodialysis		
Initial review and approval	\$150	\$300
Subsequent review and approval (program initiated changes)	\$50	\$100
Subsequent review and approval (board initiated changes)	\$25	\$50
Periodic Evaluation	\$75	\$150
Medication Aides		
Initial review and approval	\$150	\$300
Subsequent review and approval	\$50	\$100
Periodic Evaluation	\$75	\$150

According to the Board of Nursing’s annual report to the Governor, there are 9 hemodialysis training programs and 13 medication aides training programs.

According to the Board of Medical Examiners staff, HB337 requires collaboration with the Board of Nursing in the development of drug formularies for certified registered nurse anesthetists. This will require additional meetings of the formulary committee at a cost of approximately \$1,000 per year. Funding for these meetings is generated from physician licensing fees.

CONFLICT/RELATIONSHIP

Relates to HJM3, School Health Care Provider Services Study.

According to the Board of Nursing staff, Sections 61-3-3A and 61.3.23.3 NMSA 1978 are conflicting provisions. Nurse practitioners, certified registered nurse anesthetists (CRNA) and clinical nurse specialists are grouped together in a category called advanced practice. The proposed language for prescriptive authority for CRNAs is inconsistent with this definition because it is much more restrictive than the language used for nurse practitioners and clinical nurse specialists. The definition of prescriptive authority also includes diagnostic tests which is not typically included in the definition of prescriptive authority by most health care practitioners. Nurse practitioners and clinical nurse specialists are not required to have formularies developed by the Board of Nursing in collaboration with the Board of Medical Examiners.

OTHER SUBSTANTIVE ISSUES

According to the Board of Nursing staff, by removing the language “but is not limited to” (Section 61-3-3.1I, K and L NMSA 1978) from the definition of licensed practical nursing, practice of nursing, and professional registered nursing may restrict the practice of nursing to only those specific items listed in the Nursing Practice Act. The language also give the Board of Nursing some discretion in defining by rule standards of nursing practice.

The Board of Nursing staff further notes:

Section 61-3-5A NMSA 1978 – Members of the public assume that individuals who call themselves “nurse” are either a registered nurse or a licensed practical nurse. Adding this language to the Nursing practice Act would provide clarification to the public and protect them from the injudicious and sometimes dishonest use of the title “nurse.”

Section 61-3-23.2A, B, C and D NMSA 1978 – Makes the law consistent with educational preparation (UNM is currently preparing acute care nurse practitioners) and current practice giving the public access to a full array of services from the nurse practitioner.

Section 61-3-24D NMSA 1978 – Individuals who have not worked in nursing for two years will be required to complete a refresher course. Advances in treatment and technology are occurring at such a rapid pace that being out of the workforce for longer than two years requires additional education to assure public safety.

Section 61-3-29.1E NMSA 1978 – This amendment allows the Board of Nursing to utilize data to improve the services it provides through the Diversion Program for Chemically Dependent Nurses.

The Health Policy Commission staff provided the following:

The provisions of the proposed legislation may affect certain section of the Patient Protection Act.

Broadening the prescriptive authority and allowing collaborative practice for nurse practitioners and nurse anesthetists may open up more health care options for patients in rural or other areas where physician shortages exist.

The bill changes the language from “under the direction of a physician” to “in collaboration with a physician” for nurse anesthetists, but does not define “in collaboration”.

Expansion of the act for nurse anesthetists may or may not allow hospitals, rural hospitals in particular, more staffing flexibility where recruitment of anesthesiologists is difficult due to a low incidence of surgical patients.

The use of nurse anesthetists may or may not be practical, however, for hospitals due to cost categorization as these service cannot be billed separately in the same way that physician charges are.

Joint Commission on Accreditation of Health Care Organization (JCAHO) standards require an annual peer and quality assurance review by a licensed anesthesiologist of the hospital anesthesiology department.

The number of children with chronic health conditions who must be managed with medication during school hours has consistently increased, however, every school does not maintain sufficient qualified health personnel to meet the needs of these children. Development of certification program medication aides that could be utilized in public schools may solve the problem of untrained and unsupervised persons assisting with the administration of medications to students in New Mexico public schools. Continuing this practice lends itself to:

- health and safety risks to children; and
- legal risks to public school districts and personnel.

Development of certification programs for medication aides may reduce the need for additional school nurses.

The changes to the Nurse Practice Act may impact issues related to nursing shortages and nursing recruitment. A study funded by the Board of Nursing and supported by SB83 (1999) indicates the following:

- As of June 2000 there were 1,200-1,400 vacant nursing positions statewide.
- Original predictions were that changes in the health care delivery system would reduce the demand for nurses. This does not appear to be the case in New Mexico; 60 percent of acute care administrators and 54 percent of home health administrators surveyed indicated that they intend to hire more nurses in 2001 than they did in 2000.
- Most nursing specialities are in short supply in New Mexico.
- The issue of background checks for nursing students is controversial. While it is felt that such measures are necessary to protect the health and safety of the public this practice may discourage potentially good nursing candidates from entering the field.

Nursing shortages nationally make recruitment efforts in New Mexico difficult because states with more resources pay significantly higher salaries and draw nurses away from New Mexico.

Higher salaries in New Mexico urban areas draw nurses from rural areas.

AMENDMENTS

The Board of Nursing staff suggests:

Section 61-3-3I, K, and L do not remove the wording “but is not limited to”

Replace proposed Section 61-3-23B, D and E with:

- B. A certified registered nurse anesthetist may provide pre-operative, intra-operative and post-operative anesthesia care and related services including ordering of diagnostic tests in accordance with the current American association of nurse anesthetists’ guidelines for nurse anesthesia practice.
- D. Certified registered nurse anesthetist who have fulfilled requirements for prescriptive authority may prescribe dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act in the area of anesthesia practice in accordance with rules, regulations, guidelines and formularies for individual certified registered nurse anesthetists promulgated by the Board.
- E. Certified registered nurse anesthetists who have fulfilled the requirements for prescriptive authority may distribute to their patients dangerous drugs and controlled substances included in Scheduled II through V of the controlled Substances Act, that have been prepared, packaged or fabricated by a registered pharmacist or doses of drugs that have been prepackaged by a pharmaceutical manufacture in accordance with the Pharmacy Act and the New Mexico Drug, Device and Cosmetic Act.

The Health Policy Commission staff includes the following alternatives:

Hemodialysis technicians and certified medication aides may be more appropriately classified as allied health professionals rather than nurses and as such may not fall within the authority of the Nursing Practice Act, but rather another licensing and regulation authority with allied health oversight.

Background checks are required of applicants to nursing schools as well as employers of nurses. It must be considered whether or not the cost to the applicant or repeated background checks outweighs the benefit.

The Board of Medical Examiners staff included the striking of “in collaboration with the board of medical examiners” on page 21, line 23.

WJC/njw:pr:ar