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## FISCAL IMPACT REPORT

SPONSOR: Cordova DATE TYPED: 03/15/01 HB 710/aHCPAC/aHAFC  
 SHORT TITLE: Acuity-Based Staffing Act SB \_\_\_\_\_  
 ANALYST: Wilson

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		\$7,000.0 to \$20,000.0 See Narrative		Recurring	Medicaid

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates SB 503

### SOURCES OF INFORMATION

Agency on Aging (AOA)  
 Human Services Department (HSD)  
 Board of Nursing (BN)  
 Health Policy Commission (HPC)

No Response  
 Department of Health (DOH)

### SUMMARY

#### Synopsis of HAFC Amendment

HB710/aHAFC delays the date that the Department of Health must establish by rule the requirements of optimal based staffing from October 1, 2002 until October 1, 2003. It also delays the date that nursing homes must comply with optimal based staffing from July 1, 2003 to July 1, 2004.

#### Synopsis of HCPAC Amendment

HB 710/aHCPAC changes the "acuity-based staffing" act to the "optimal based staffing" act. The amendment deletes the definition of "acuity-based," changes the definition of "direct care personnel," and adds the definition of "optimal staffing" The new definition of "optimal staffing" gives the nursing homes a numerical formula to followed which is easier to interpret and gives the same benefits of care as the original bill. The amendment also moves up the starting date by one year to July 1, 2002. The rest of the bill amendment is technical.

Synopsis of Original Bill

HB 710 provides for minimum staffing requirements in nursing homes and intermediate care facilities. The bill gives DOH the authority to define and regulate staffing based on the resident level of care in nursing homes. HB 710 defines “acuity-based staffing” as assigning the number of direct care personnel per shift to meet the specific needs of the residents for health, functional and behavioral status and capacities. The direct care personnel defined in the bill are the only staff counted in the acuity based method.

Significant Issues

AOA provided the following:

- C As of August 2000, DOH implemented a minimum staffing requirement in state regulation - 2.3 hours per day for intermediate level of care residents. According DOH, prior to August 2000, **only** 12 facilities were **not** meeting this requirement.
- C Facilities are currently required per federal regulation to track the health, functional and behavioral status, and capacities through the resident assessment and care plan - known as the Minimum Data Set (MDS).
- C This bill provides authority for DOH to require facilities to use the resident assessment and care planning information for purposes of creating direct care staffing levels to meet the needs of residents.
- C Under the current DOH regulation, nursing personnel allowed to be included in the staff ratio include nursing administration such as the Director of Nurses, Nursing department directors, non-certified nursing assistants and restorative nursing assistants. Many of these individuals perform duties other than direct care which may decrease the hands on care to residents.

HSD disagrees and reports HB 710 would be redundant. Staffing requirements for nursing facilities were incorporated into the DOH regulations for “Requirements for Long Term Care Facilities,” on August 31,2000. These regulations address staffing requirements, define personnel, outline duties and responsibilities, and specify the number of personnel and staff required based on shifts and census data.

**FISCAL IMPLICATIONS**

The AOA estimates that HB 710 will result in an increase in Medicaid payments to nursing facilities of \$7 to \$20 million. HSD unofficially estimates the lower number while the industry believes that \$20 million will be the actual cost.

## ADMINISTRATIVE IMPLICATIONS

DOH did not respond. HSD indicated that if staffing requirements increased, the Medicaid program would recalculate rates for nursing homes based on the number of staff members in each nursing facility.

## OTHER SUBSTANTIVE ISSUES

- The BN would like to be added to the list of agencies the DOH must consult with when rules under HB 710 are promulgated.
- c The Long Term Care Ombudsman Program of the AOA is charged with investigating and resolving complaints in nursing homes. Staffing levels in nursing homes have been a major source of complaints for the Program. The program's output measures include the percentage of complaints resolved. AOA believes increased staffing levels will resolve many of the complaints currently received by the Program.

The HPC provided the following:

- c New Mexico currently has the Long Term Care Regulatory Quality Cabinet (LTCRQC) which is led by the Division of Health Improvements (DHI) to address issues related to long term care facilities.
- c The LTCRQC was instrumental in providing the necessary groundwork for identifying minimum staffing ratios for nursing facilities in New Mexico which was effective August 31, 2000. The new regulations require posting of staff per shift.
- c DHI is committed to evaluating the impact of the new regulations and making regulatory changes based upon the completion of its review this spring. DHI is committed to evaluating the impact of the new regulations and making regulatory changes based upon the completion of its review this spring.
- c Increasing staff levels will increase nursing facility costs and that cost increase will be passed on to consumers and Medicaid.
- c No state currently uses an acuity-based staffing ratio system. Acuity based staffing is used by acute care hospitals and is not generally applicable to chronic long-term care services.

DW/njw:ar:sb