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FISCAL IMPACT REPORT

SPONSOR Rawson DATE TYPED 02/19/05 HB _____

SHORT TITLE Uncompensated Health Provider Coverage SB 717

ANALYST Geisler

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			See narrative		

(Parenthesis () Indicate Expenditure Decreases)

Relates to: SB 427

SOURCES OF INFORMATION

General Services Department (GSD)

Human Services Department (HSD)

SUMMARY

Synopsis of Bill

Senate Bill 717 amends § 15-7-3(B)(3) NMSA 1978 to require the Risk Management Division (RMD) of the state General Services Department (GSD) to provide liability insurance for medical malpractice claims successfully brought against health care providers that treated a patient enrolled in Medicaid or a state health coverage plan, or an indigent patient that did not compensate the provider.

Significant Issues

The Medical Malpractice Act currently makes liability insurance available for health care providers in the state; insurance under the Act is funded through an annual surcharge on participating health care providers that is paid into the Patient's Compensation Fund.

The bill would require RMD to provide liability coverage to all health care providers where there are certain medical malpractice claims by persons covered by Medicaid, state health plans, or indigent persons. RMD currently covers tort and civil rights liability claims against state agencies and other public entities with premiums charged to such covered bodies and paid into the

public liability fund.

The bill does not expressly address how RMD will assess premiums for the new coverage provided by the bill or will pay for the additional costs of administration, claims and defense costs for claims. If the purpose of the bill is to provide free liability coverage to health care providers, subsidized by premiums already paid into the fund, that may violate the anti-donation clause of the state constitution, particularly in the case of persons covered by a state health coverage plan.

FISCAL IMPLICATIONS

Extending this coverage to non-governmental associations or individuals greatly exceeds GSD/RMD's charter and is likely to expose the state to considerable financial liabilities. RMD will need to fund this program either through a direct appropriation, by increasing rates that are paid by state agencies, or by assessing the cost of the insurance and associated administrative costs to the persons being offered coverage. HSD estimates potential costs to the state of up to \$100 million.

ADMINISTRATIVE IMPLICATIONS

Unknown, as the intent of the legislature is not clear.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 717 relates to SB 427, which also amends the statutes pertaining to the Risk Management Division to permit RMD to provide liability coverage for certain health care providers that would pay premiums to RMD.

TECHNICAL ISSUES

The substance of the bill, when compared to its title, is unclear. The title of the bill refers to providing coverage for "uncompensated health providers" while the bill's amendment to § 15-7-3(B)(3) appears to require coverage for claims by all persons covered by Medicaid and state health coverage plans and "indigent patients that did not compensate the provider." If the phrase "indigent patients that did not compensate the provider" is also intended to apply to all persons covered by Medicaid and state health coverage plans, the bill is unclear.

While the bill refers to claims filed under the Medical Malpractice Act, it does not expressly amend the Act. As a consequence, it is not entirely sure how the bill's provisions, if enacted, will operate in relation to the Act. For example, the bill states that coverage is only for "successful" malpractice claims. Does that mean that the defense of "unsuccessful" claims will continue to be handled by the Patient's Compensation Act?

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

GSD/RMD will not be required to provide medical malpractice insurance under the conditions covered in the bill.

GGG/yr