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FISCAL IMPACT REPORT

SPONSOR Lopez DATE TYPED 3/15/05 HB _____

SHORT TITLE Polysomnography Licensure Exemptions SB 1051/aSPAC

ANALYST McSherry

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
NFI	\$3.0-\$5.0	\$5.0-\$6.0	Recurring	Respiratory Care Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulations and Licensing Department (RLD)

SUMMARY

Synopsis of SPAC Amendments

Senate Public Affairs Committee Amendments made to SB 1051 would replace the proposed definition for Polysomnography-related respiratory services, add an additional “exemption” from licensure requirements, and would add a provision allowing RLD and the Respiratory Care Board to issue temporary permits for students and graduates of approved polysomnography training programs.

The newly proposed definition of polysomnographic related respiratory care services to be: the limited practice of respiratory care by a polysomnographic technologist under medical direction, a technician or trainee under physician or technologist supervision, or a licensed respiratory care practitioner. The services would be limited to “diagnostic and therapeutic” use of oxygen and noninvasive ventilatory assistance for patients who spontaneously breathe when awake, application and monitoring of oximetry and capnography, and educating patients.

The new exemption would allow a polysomnographic technologist to transcribe and implement the orders of a NM physician or other authorized prescribing entity pertaining to polysomnography.

Synopsis of the Original Bill

Senate Bill 1051 proposes to amend the Respiratory Care Act to include three new types of licensure (polysomnography, polysomnographic technicians and polysomnography trainees), increase the number of members on the board from five to six, and change restrictions of practice accordingly.

Specifically, the bill would:

Amend the definition section of the Respiratory Care Act (the Act) to include polysomnography, polysomnography-related respiratory care services, polysomnographic (PSG) technicians, PSG technologists, and PSG trainees. Polysomnography would be defined as: the process of analyzing, monitoring and recording physiologic data during sleep and wakefulness to assist in the assessment and diagnosis of sleep-wake disorders and other disorders, syndromes and dysfunctions that are sleep-related, manifest during sleep or that disrupt normal sleep-wake cycles and activities.

Include educational, training, and examination requirements for PSG technologists to qualify for issuance of a limited license to provide polysomnography-related respiratory care services to patients in sleep disorder centers, sleep clinics, or sleep laboratories under the supervision of a New Mexico licensed physician at a sleep disorder center or laboratory.

Include education and training requirements for PSG technicians and trainees to qualify for limited permits to provide polysomnography-related respiratory care services as defined in the legislation, to patients in sleep disorder centers, sleep clinics, or sleep laboratories under the supervision of a New Mexico licensed physician at a sleep disorder center or laboratory.

Authorize the Regulation and Licensing Department (RLD) promulgate rules for issuance and renewal of limited licenses to PSG technologists, and limited permits to PSG technicians or trainees.

Add a PSG technologist member to the Respiratory Care board, and sets forth the requirements for appointment to the board.

Allow the Department to waive the education and examination requirements for a PSG technologist applicant for limited license who presents proof of current licensure, registration, or permit in good standing in another jurisdiction that has licensure/permitting standards at least equal to or better than those required in the Act.

Establish title use provisions for PSG technologists who have been issued a limited license or PSG technicians and trainees who have been issued limited permits by the Department.

Amend Section 61-12B-12 to include PSG technologists, technicians, and trainees in the disciplinary provisions of the Act.

Authorize the Department to assess licensure and renewal fees for licensing and permitting of PSG technologists, technicians, and trainees.

Significant Issues

The proposed licensures have not been reviewed through the sunrise process. A new board is not being proposed, however a new types of professional licensure is proposed.

It is not known whether individuals currently practicing polysomnography would meet the licensing requirements proposed in the bill.

The proposed bill would require PSG technicians to have completed a formal polysomnography training program associated with a state-licensed or nationally accredited educational facility or successfully completed 480 hours of experience as a trainee. It is not known what portion of care providers would be eligible for licensing if the proposed bill went into effect on July 1, 2005. It is possible that a large portion of providers would not be eligible.

According to RLD, many PSG technologists and technicians are trained on the job (OJT) and the OJT varies from employer to employer resulting in great variability. RLD asserts that the variability places patients in sleep centers, sleep clinics and sleep laboratories at risk and that the state has no mechanism in place to monitor the quality of care provided or the ethical behavior of PSG staff.

RLD reports that tests performed by PSG staff require contact with a patient's body, watching/videotaping patients sleep, knowledge of protected health information, patient education, and manipulation of modality devices if certain treatments are utilized.

According to RLD, respiratory care related modalities affect the patient's ability to breathe, and are sensitive. The Department believes personnel should be trained and competent to provide these services.

This legislation would require that PSG personnel who provide PSG-related respiratory care services have documented training, continuing education, and regulation consistent with the requirements for respiratory care practitioners providing the same PSG-related respiratory care services to patients.

FISCAL IMPLICATIONS

The bill provides for increased revenues to the Respiratory Care Board garnered through three new licensures.

ADMINISTRATIVE IMPLICATIONS

The additional three levels of licensure would result in additional administrative workload for the board administrators at RLD and additional workload for the Respiratory Care Board.

TECHNICAL ISSUES

There is a technical error on Line 4, page 4. "of" should be deleted at the beginning of the line.

OTHER SUBSTANTIVE ISSUES

RLD asserts that the proposed changes in SB1051 were developed by members of the New Mex-

ico Society for Respiratory Care who operate sleep centers/clinics/labs in Albuquerque, Santa Fe, Gallup and Clovis and that the bill incorporates language recently enacted by the Oregon state legislature.

RLD predicts there may be opposition to the legislation from the Association of Polysomnographic Technologists. It is not clear what role, if any, polysomnographic technologists, technicians, and trainees have played in developing the proposed language.

Despite the new licensure being proposed to be included under an already existing board; it seems that the same process of public and professional hearing and involvement should be considered when regulating a new profession as is provided for when creating a new licensing board through the Sunrise Act.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

Sleep centers/clinics/laboratories will continue to train and employ polysomnography professionals and the profession would not be licensed.

According to RLD, patients would be at risk.

POSSIBLE QUESTIONS

1. What role have polysomnographic professionals taken in proposing this bill?
2. Have public hearing been held regarding the proposed licensures?
3. Have any “grandfathering” mechanisms been proposed to provisionally license those professionals currently practicing polysomnography?

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