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FISCAL IMPACT REPORT

SPONSOR SJC DATE TYPED 03/17/2005 HB _____

SHORT TITLE Circumstances For Physician Licensure SB CS/297&341/SJCS/aHBIC

ANALYST Moser

APPROPRIATION

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

SOURCES OF INFORMATION

LFC Files

Responses Received From
Medical Examiners Board

SUMMARY

Synopsis of HBIC Amendment

The House Business and Industry Committee amendment to the SJC Committee Substitute for SB297 and 341 restores language requiring licensure candidates to be "...of good moral character."

Synopsis of Committee Substitute

The Senate Judiciary Committee Substitute for SB297 and SB341 resolves the issues raised in SB297 over licensing graduates of UNM residency programs who did not go to approved schools and incorporate the clarifications and corrections to existing language found in SB341. Several other changes are substantive, including authority to subpoena peer review records and keep them confidential, authority for the board to make exceptions to the time frame for completing examinations, and clarification of language about inappropriate sexual contact with patients and/or their guardians.

Significant Issues of Committee Substitute

A "grandfather" clause has been added to allow graduates of unapproved medical schools who

complete two years or more of a residency program within New Mexico prior to December 30, 2007 to be licensed. Expanded subpoena power and streamlined language about sexual misconduct will assist the Board to fulfill its statutory mandate to protect the NM public through investigations of consumer complaints against physicians. Clarification to licensure sections will assist applicants to better understand the requirements for licensure. Provisions for exceptions to the examination timeframe will permit the Board to be more flexible in its consideration of individual applicants.

New language on Page 3 incorporates the essence of SB297. It allows a graduate of an international medical school that may or may not be “approved” to be licensed in New Mexico if they have also completed at least two years of an approved postgraduate training program at or affiliated with an institution located in New Mexico prior to December 30, 2007. The will allow the current students who were accepted into a New Mexico residency program to be licensed and hopefully practice in rural areas of the State. Several of these students were accepted into UNM programs before the law changed in July 2002 to require an “approved” medical school.

To avoid similar problems in the future, language is being added on Page 17 to allow the Board to establish by rule specific education or examination requirements for postgraduate training (otherwise known as “resident”) licenses. Through the rule-making process the Board will be able to obtain public input and discussion before developing these specific requirements for a resident license.

The Board currently has the authority to issue investigative subpoenas, however, new language requires review organizations to comply with board subpoenas and clarifies current concerns about the confidentiality of information provided to the Board. All information subpoenaed remains confidential and will not be disclosed, except in very limited circumstances. (Pages 1, 2 and 19)

Existing licensing requirements prescribe a period of seven years for an applicant to complete the examination series (ten years for certain applicants). New language will allow the board to develop a rule establishing other exceptions to this seven-year requirement. In the past few years several qualified applicants were not able to be licensed in New Mexico because of the existing provision and many other states have dropped or revised their time frames for examinations given that there appears to be no direct correlation between time in which the examination series was completed and future competence of the physician. (Page 4).

Existing language about inappropriate sexual contact between a physician and patient or the guardian of a patient requires that the physician represents or infers that the sexual contact is part of the patient’s treatment. This is an artificial and outdated limitation, and removal of this language will enhance the Board’s ability to carry out its statutory mandate to protect the NM public. (Page 14)

The Medical Board considers the following amendments to be primarily clean-up and clarification:

- Page 3, line 14, removing the requirement for “good moral character” because other provisions of the law allow us to determine if an applicant has convictions or licensing actions. This language is being removed throughout the Act.
- Page 2, line 22, changes the language “medical college or school in good standing” to an “accredited” U.S. or Canadian medical school. This clarifies what “good-standing” actu-

ally means. This language is also being clarified as it applies to licensing by endorsement on page 7, line 6.

- Page 3, line 11, because U.S. and Canadian schools are very similar in curriculum requirements we have included both in the first paragraph. This paragraph only applies to graduates from a medical school located outside the US or Canada.
- Page 4, line 25, and Page 5, lines 1 and 16-18, are being deleted as outdated. License verification is no longer dependent upon “proper endorsement” but is done electronically.
- The changes to pages 7 and 8 allow the board to designate someone other than the secretary-treasurer to approve temporary licenses. These sections also include drafting changes with no substantive change in the requirement.
- Page 18, the changes to Public Service licenses will be consistent with current practice and establish a fixed date for license expiration. Currently the licenses are valid for one year and can expire on any date, which has become a tracking nightmare for staff.

Synopsis of Original Bill

SB297 adds language to the Medical Practice Act which allows the Medical Board to license a graduate of a medical school or college “not in good standing” if certain other conditions are met, including a residency program under the direction of or approved by the school of medicine at the University of New Mexico.

Significant Issues

Under the physician licensing provisions two paragraphs address medical education. Paragraph A provides the licensing requirements for graduates of US medical schools “in good standing” or, using a more common term, accredited. Paragraph C provides the licensing requirements for medical schools located outside the US, requiring that they be “board-approved.” The Board has, by rule, defined what is considered a “board-approved” medical school located outside the US.

The language in SB297 further confuses the requirements in Paragraph A by adding a second option, which is basically the same with two exceptions:

1. the medical school no longer is required to be “in good standing,” and
2. Language has been added specifically including residency programs operated under the direction of or approved by the school of medicine at UNM.

UNM residency programs are already considered to be approved postgraduate training programs, so the specific reference in the Bill does not change the meaning of the requirement.

It appears the intent of the bill is to allow the Board to license applicants who did not go to an accredited or board-approved medical school, and who have not yet practiced anywhere in the US.

The Board is very concerned about the licensing of individuals who did not go to an accredited or approved school and who are just completing their residencies. They are also very aware that some schools (primarily Caribbean schools targeting US residents) do not meet the current requirements. They are struggling with issues such as does passing the exam and completing an approved residency program compensate for an unapproved school.

In addition, there is an existing alternative route to licensure for physicians who attended a non-accredited medical school outside the US: licensure by endorsement allows them to be eligible to apply for a New Mexico license after three years of unrestricted practice in another state.

The board indicates that further research is underway to identify how other states address this problem and there is a good chance the Board will further define what they consider to be an approved International school. However, the Board believes that medical school is an essential part of learning to be a medical doctor and does not support the deletion of all requirements for approval of medical schools.

FISCAL IMPLICATIONS

Minimal, if any, impact.

ADMINISTRATIVE IMPLICATIONS

The medical examiner board indicates that the language in this bill would further complicate the various licensing requirements for physicians, making it more difficult for staff to process applications. However, the implications are not significant.

ALTERNATIVES

The Board through rule changes can address the issues raised by SB297.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

Physicians who graduate from non-accredited medical schools outside of the US will continue to be eligible for licensure in NM under the licensure by endorsement provisions.

GM/njw:lg:yr