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FISCAL IMPACT REPORT

ORIGINAL DATE 2/20/07
 LAST UPDATED 2/22/07 HB 956/aHHGAC

SPONSOR Gardner

SHORT TITLE HEALTH CARE PROVIDER TORT IMMUNITY SB

ANALYST Propst

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	Indeterminate		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)
 General Services Department (GSD)
 Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Amendment

Clarifies the bills scope to apply to a “provider” “who has no medical liability insurance.”

Synopsis of Original Bill

House Bill 956 proposes to amend the Tort Claims Act to provide limited immunity to New Mexico licensed health care providers providing voluntary services without compensation. Voluntary services that are provided must be in accordance with rules promulgated the Secretary of the New Mexico Department of Health.

FISCAL IMPLICATIONS

GSD reports that the Risk Management Division (RMD) of the General Services Department (GSD) has no statistics or past experience to calculate the fiscal implication. The governmental entity authorizing volunteer services of these health care providers would be assessed the cost of the premiums to cover the defense costs should a lawsuit be filed against the health care provider

or the authorizing agency. (By granting limited liability to the volunteer health care provider, the authorizing agency's liability would also increase.)

Associated costs would be difficult to predict and would be reflected as an increase in the authorizing agency's future rate, based on experience (calculated at 70% of a 5-year average) and exposure (30%). Exposure would increase immediately because of the added potential liability. Experience would come into play only after a claim is paid in connection with a volunteer who had been authorized by a governmental entity to provide services.

SIGNIFICANT ISSUES

DOH reports that due to the shortage of professional health care providers in certain rural areas of the state some voluntary health care providers would need to respond in the event of a public health emergency. DOH has developed and maintains a health care provider registry to support a well coordinated and effective response to health emergencies. If volunteers are not adequately protected from liability, it may be less likely that they will respond to a request from DOH for assistance during public health emergencies.

HB 956 does not limit coverage to an identified list of health care providers. In addition, only those voluntary services provided according to rules promulgated by DOH would be eligible for coverage by HB 956.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 956 relates to:

- SB22 which would provide limited liability for licensed health care providers during a public health emergency;
- HB605 which provides that unpaid health professionals deployed by DOH responding to a declared emergency would be considered a public employee for purposes of coverage under the Workers' Compensation Act.
- SB 23 which would amend the Medical Malpractice Act to provide limited malpractice liability for retired still-licensed medical professionals who provide volunteer care without compensation.

WEP/mt