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F I S C A L I M P A C T R E P O R T

SPONSOR Lopez **ORIGINAL DATE** 02/02/08 **LAST UPDATED** 02/07/08 **HB**

SHORT TITLE NM Hospital Transparency Act **SB** 518/aSPAC

ANALYST Geisler

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		See amendment			Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates: Committee Substitute for HB 455

SOURCES OF INFORMATION
LFC Files

Responses Received From
Department of Health (DOH)
Health Policy Commission (HPC)

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment to Senate Bill 518 strikes the $50 thousand appropriation. If the legislation is enacted, DOH will have to absorb costs associated with implementing the Act. As amended Senate Bill 518 now duplicates the committee substitute for HB 455.

Synopsis of Original Bill

Senate Bill 518 enacts the "New Mexico Hospital Transparency Act," which creates a "Hospital Transparency Information System."

- Section 2, Definitions, provides definitions for terms used throughout the bill, which include department, hospital and secretary.

- Section 3, Hospital Transparency Information System Design, requires that the Secretary of Health develop a Hospital Transparency Information System to provide for the collection, compilation, coordination, analysis, indexing and use of hospital performance

data and statistics to produce and report uniform health information and statistics.

- Section 4, Specific Duties, requires the Secretary of Health to:
    - develop and implement a long-range plan for making hospital services outcomes and other specific performance data available for public viewing;
    - submit an initial plan, by September 1, 2008, and thereafter an annual update to the plan and report on the status of implementation to the Governor, the Pro Tempore of the Senate and the Speaker of the House of Representatives;
    - make available clinical outcome measures from hospitals;
    - select a statewide association representing hospitals that will provide the Secretary with the association's organizational documents and rules, a plan outlining the organization's consideration of interests of health care consumers, and its plans to organize an advisory group to develop and implement infection rate reporting;
    - examine and evaluate the collection, analysis and validity of the data used as a basis for the report; and
    - ensure that the Department of Health is prepared to assume the duties of implementing the New Mexico Hospital Transparency Act if the organization selected to report does not complete its contract.

- Section 5, Compliance with Federal Law, provides that data collected under the provisions of the New Mexico Hospital Transparency Act shall not include personally identifiable health information and shall be collected in compliance with the federal Health Insurance Portability and Accountability Act.

- Section 6, Report, requires the Secretary of Health to issue a transparency report to be available on an Internet web site. The Secretary shall allow a hospital 30 days for comment on and inclusion in the final hospital transparency report.

Senate Bill 518 includes an emergency clause.

FISCAL IMPLICATIONS

Neither the Legislative nor the Executive base budget recommendations contain any funding specifically for this purpose. SB518 contains an appropriation of $50,000 for expenditure in FY09 and FY09. DOH would be required to maintain the searchable website and coordinate the development of the report with only limited additional financial support. These are significant costs that could not be accommodated within the appropriation provided in SB 518. It is unclear whether the Department would be required to compensate the selected hospital association to coordinate in the collection and submission of required data.

SIGNIFICANT ISSUES

HPC notes that the New Mexico Health Policy Commission Act of 1991 already charges the New Mexico Health Policy Commission to do many of the activities described in SB 518.

The Health Information System already exists (24-14A-3):

The "health information system" is created for the purpose of assisting the commission, legislature and other agencies and organizations in the state's efforts in collecting, analyzing and disseminating health information to assist:

1. in the performance of health planning and policymaking functions, including identifying personnel, facility, education and other resource needs and allocating financial, personnel and other resources where appropriate;
2. consumers in making informed decisions regarding health care; and
3. in administering, monitoring and evaluating a statewide health plan…

HPC notes that it has a developed process in place to collect data from non-federal hospitals in New Mexico.

- HPC has published the Hospital Discharge Annual Data report every year from 1996 through 2006.
- HPC has developed relationships related to the collection and reporting of hospital data with the New Mexico Department of Health, the New Mexico Hospital Association, the CDC and many others.
- HPC has a plan in place to join with the national Healthcare Cost and Utilization Project by the U.S. Department of Health and Human Services to standardize hospital discharge data and to make it available on the H-CUP web site (http://www.ahrq.gov/data/hcup/).

HPC notes that SB 518 may place considerable burden on data submitters because it requires the exclusion of the collection of personally identifiable health information (PHI). Federal law may prohibit the reporting of PHI but not necessarily the data collection of PHI that is described in SB 518. The wording of SB 518 seems to require the data submitters to aggregate the data.

DOH noted the following issues:

- The legislation specifies no timeline for the 'long-range plan' for creation of a hospital transparency system that would allow the Secretary and the association to determine when full implementation could reasonably begin.
- SB 518 neglects to define which specific indicators for each area, such as hospital infections, would be monitored and reported. Outcome measures used for reporting should take into account risk adjustment for patient and facility-specific factors (e.g., regional referral centers admit and treat more complicated patients).
- Future additional resources required by a hospital transparency system could strain hospitals, increasing the workload for ICPs and other hospital personnel and potentially requiring an increased investment in appropriate information technology to facilitate the data collection and analysis required.
- Misinterpretation by the public of the reports resulting from the transparency system (e.g., misinterpretation of small differences between individual hospital rates that are not statistically and clinically meaningful could be confusing).
- Increased use of laboratory services for surveillance and reporting activities that go beyond currently recommended approaches.
- Reporting could create a 'punitive' system (e.g. payers may use reported information to

develop tiers of reimbursement or channel money to improvement initiatives, or insurers may use the information for pay-for-performance initiatives).

- Duplicate reporting requirements of national organizations and agencies.

ADMINISTRATIVE IMPLICATIONS

DOH notes that there would be significant administrative impact. The Department would need to: establish administrative infrastructure to develop a "hospital transparency information system" and, after development of the system, oversee reporting of many indicators; recruit and oversee technical expertise to design both the information technology and the numerous standardized performance measures; work closely with facilities to correctly implement a new set of tasks to acquire and report the required information; communicate effectively with the public in order to assure that they are receiving what they need in a format that they are able to understand. DOH notes, at a minimum, a full-time coordinator would be necessary to analyze, organize and convene the necessary documentation and participants to meet the bill requirements. Salary and benefits for a coordinator/contractor would be in excess of the $50,000 appropriation in SB 518.

RELATIONSHIP

SB 518 relates to HB 455, which proposes to enact a new section of the Public Health Act which would require the DOH to promulgate rules to develop and maintain a mandatory internet-based hospital transparency information system (HTIS) for the general public.

OTHER SUBSTANTIVE ISSUES

<u>DOH Provided Background on Hospital Reporting</u>

Transparency of hospital operations is a target for public policy. The aim is to provide consumers with information about hospital service quality and capacity, cost, and other key operation information. The aim is to give consumers what they need to comparison shop for hospital services. The Centers for Medicare and Medicaid Services (CMS) are a key mover in the hospital transparency effort. They have required reporting from most hospitals on a dataset related to the data reporting requirements of SB 518. CMS established a Hospital Compare website which permits consumers to compare operating characteristics of all reporting hospitals nationwide:

Similarly, the Internal Revenue Service has modified its form 990, the annual information return for nonprofit–charitable corporations, to include additional transparency reporting from nonprofit hospitals. The reporting requirements on this form are related to some of the reporting requirements identified in SB518. The Health Policy Commission is currently charged with reporting annually on procedures and outcomes for each hospital. The HPC already has established contacts with hospitals for reporting and would seem to be the best place to prepare this report.

SB 518 would establish a state level reporting system related to the federal system that is under development. There would likely be differences between information reported under SB 518 and information reported to the Federal system, and a means of modifying hospital reporting to deal with the differences would need to be established. There is enough similarity between State and

Federal reporting requirements to indicate that this is not an insurmountable problem.

New Mexico Administrative Code (Title 7 Health, Chapter 4, Disease Control (Epidemiology), Part 3 Control of Disease and Conditions of Public Health Significance) already mandates the reporting of communicable diseases and conditions. This legislation may cause duplication in reporting.

Ongoing endeavors in New Mexico to address issues presented in SB518 include the following:

- In 2006, the New Mexico Hospital Association (NMHA) opened a public website that reported comparative average charge information by diagnosis-related group (DRG). This is a voluntary process and currently 26 hospitals are participating.
- Currently 41 New Mexico hospitals voluntarily participate in Hospital Compare. The Hospital Compare web site (www.hospitalcompare.hhs.gov) was created through the efforts of Centers for Medicare and Medicaid Services (CMS), the Department of Health and Human Services (DHHS) and other members of the Hospital Quality Alliance (HQA).
- HQA is a national public/private collaboration designed to promote the reporting of quality of care in hospitals. Hospitals voluntarily submit data from their medical records about treatments that adult patients receive for these conditions, including patients with Medicare and those who do not have Medicare.
- Hospitals that participate in the CMS Surgical Care Improvement Project (SCIP) submit data on surgical process measures. Many of these indicators are already available to the public and listed by facility (www.medqic.org/scip); more indicators of surgical quality care and outcomes will follow as this project progresses.
- Some New Mexico hospitals also participate in other multi-institution efforts to prevent healthcare-associated infections (HAIs) such as the 5 Million Lives Campaign conducted by the Institute for Healthcare Improvement (IHI). The 5 Million Lives Campaign (http://www.ihi.org/IHI/Programs/Campaign/) is a voluntary initiative to protect patients from five million incidents of medical harm over the two-year period of December 2006 – December 2008. As of July 2007, 27 New Mexican hospitals had enrolled as participants in the campaign.
- The New Mexico Health Policy Commission (HPC) is moving toward adoption of the Healthcare Cost and Utilization Project (HCUP) which is sponsored by the Agency for Healthcare Research and Quality (AHRQ). HCUP aims to create a national information resource of patient-level health care data.
- The Health Policy Commission is currently charged with reporting annually on procedures and outcomes for each hospital.

In August/September 2007, a web-enabled survey was conducted among infection control practitioners (ICPs) in the state through New Mexico Association for Professionals in Infection Control and Epidemiology (APIC) and the New Mexico Hospital Association under the auspices of HJM 67 Task Force. The survey suggests that some hospital personnel are already overworked. The anonymous survey captured information on the size of the facility, the number of employees devoted to infection control, what basic surveillance activities were being performed for healthcare-associated infections and the electronic reporting capacity of each facility. This survey uncovered at least one potential challenge to healthcare-associated infections surveillance and reporting; the mean number of beds per 1 full-time equivalent (FTE) ICP exceeded the Centers for Disease Control and Prevention (CDC) recommendation (i.e., 100 beds per 1 FTE) in small-medium and large hospitals. This finding implies that

ICPs in small-medium and large hospitals in New Mexico are already overworked and would therefore struggle to maintain their current responsibilities in addition to meeting the proposals under SB 518.

GG/nt