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FISCAL IMPACT REPORT

SPONSOR Anderson ORIGINAL DATE 3/6/9
LAST UPDATED _____ HM 71
SHORT TITLE Health Care Professional Disaster Response SB _____
ANALYST Chabot

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$10.0		\$10.0	Non- Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)
New Mexico Health Policy Commission (HPC)
New Mexico Medical Board (MB)

Responses Not Received From

Homeland Security and Emergency Management Department (HSEMD)
New Mexico Board of Nursing (BN)
University of New Mexico (UNM)

SUMMARY

Synopsis of Bill

House Memorial 71, Health Care Professional Disaster Response, resolves HPC create a task force to study reasonable limits on the duty of health care professionals to respond to disasters and report findings and recommendations to the interim Legislative Human Services Committee by October 31, 2009.

The memorial further resolves the task force have representation from the UNM School of Medicine, UNM School of Law, health professional licensing boards, at least two individuals with education and experience in bioethics, New Mexico Hospital Association, DOH and HSEMD.

FISCAL IMPLICATIONS

No appropriation is included in this memorial; however, costs will be incurred by participants. As estimate of \$10 thousand is made by the LFC; however, no responding agencies provided an estimate of costs.

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HPC states “there will be an impact on HPC staff and resources to publish the findings and recommendations developed by the task force. Task force members may be entitled to per diem and mileage as provided in the Per Diem and Mileage Act. The HPC has very little funds and will not be able to provide Per Diem and Mileage. The Commission has enough funds to have the required Commission meetings. Addition funding would be necessary in order to provide the Per Diem and to publish the report asked for in this Memorial. Additional fiscal impact to state agencies will be dependent upon what findings and recommendations made by the task force are ultimately suggested for implementation.”

SIGNIFICANT ISSUES

DOH reports there is already limited tort claim liability available for health professionals who anticipate volunteering for the Department of Health in disaster situations through the NMServes program administrated through the Bureau of Health Emergency Management. Additionally, the Tort Claims Act defines “public employee” as "persons acting on behalf or in service of a governmental entity in any official capacity, whether with or without compensation", and provides limited protection in all care situations for New Mexico licensed Emergency Medical Services (EMS) caregivers and seemingly other healthcare professionals who are employed by or volunteer for a governmental entity. However, there may not be similar protection for career health professionals performing disaster medical care as part of their jobs who are not employed by or volunteering for a governmental entity. Upon activation of the NM All Hazards Plan, the state, through the Health Department Emergency Operations Plan, may be required to ration medical supplies or triage care related to the magnitude of the health disaster. Health care responders may be challenged by choices between personal safety and public safety, lack of adequate facilities or equipment and supplies to provide the standard of care provided in normal times. HM71 would provide a forum for discussion and guidance development on these issues and a platform for legislation recommendations that could provide protections for health care professionals. All healthcare caregivers should know they can provide the best level of care available without fear of legal consequences when functioning in extreme circumstances.

The Bureau of Health Emergency Management manages the volunteer registry for disaster volunteers that include many health care professionals. Guidance in the area of limits of duty would be useful guidance in their disaster preparedness training. The results of the task force could also suggest legislation to protect volunteer health care workers who serve in disasters there by creating further incentives to volunteer.

DOH states would be a member of the task force and could participate using existing resources.

The MB agrees that health care professionals would benefit from a study that would provide guidance and direction prior to the time of a catastrophic disaster. This would include a review of Medical Board Rules.

GAC/mc