

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (www.nmlegis.gov). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 02/26/13
 LAST UPDATED 03/07/13

SPONSOR SJC HB _____

SHORT TITLE Emergency Mental Health Evaluations SB CS/CS/271/aSJC

ANALYST Geisler/Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI				

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 220

SOURCES OF INFORMATION

LFC Files

Responses Received From

Human Services Department (HSD)
 Regulation and Licensing Department (RLD)
 Medical Board (MB)
 Nursing Board (NB)
 Attorney General’s Office (AGO)
 Department of Health (DOH)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee technical amendment to the Senate Judiciary Committee substitute for SB 271 on page 6, line 17 strikes psychologists from the definition of “qualified mental health professional licensed for independent practices.” Psychologists are already licensed for independent practice and therefore do not need to be included in this section of the bill.

Synopsis of Original Bill

The Senate Judiciary Committee substitute for the Senate Public Affairs Committee substitute for Senate Bill 271 (SB 271) would amend NMSA 1978, Sections 43-1-3 and 43-1-10 to expand the type of health care practitioners permitted to certify that an adult presents a likelihood of

serious harm to self or others which is currently limited to physicians and certified psychologists. This certification is required to initiate detention and transportation of a client to evaluation facility.

The bill amends Section 43-1-13 of the Code to add the definition of “qualified mental health professional licensed for independent practice” who by training and experience are qualified to work with persons with a mental disorder which includes six classes of licensed practitioners:

- Psychologists
- Independent social worker
- Licensed professional clinical mental health counselor
- Marriage and family therapist
- Certified nurse practitioner
- Clinical nurse specialist with a specialty in mental health

SB 271 further amends Section 43-1-10, to permit this new class of professionals (if affiliated with a community health center or core service agency) to certify that a person, as a result of a mental disorder, presents a likelihood of serious harm to him or herself or to others and that immediate detention is necessary to prevent such harm. Such a certification authorizes transport, by peace officers, of the individual to an evaluation facility for further assessment to determine whether there are reasonable grounds to detain the individual for evaluation and treatment. Under existing law, although immediate transport to such an evaluation facility is preferred in the code, provision is also made that in cases of extreme emergency for protective custody an individual may be detained in a detention facility for no longer than twenty-four hours.

FISCAL IMPLICATIONS

No fiscal impact has been identified.

SIGNIFICANT ISSUES

The intent of SB 271 is to expand the types of health care providers that can certify a person presents a likelihood of serious harm to themselves or others in order to initiate an emergency evaluation, which increases the probability of successful intervention in the cases of individuals that may harm themselves or others in their families or the community. With only 922 psychiatrists and psychologists licensed to practice in New Mexico, many mental health centers do not have these doctors on site on a daily basis. This leaves a situation where individuals in crisis who arrive at these locations cannot be referred by trained mental health staff for transportation to receive an emergency evaluation; instead the police, with less mental health training, have to be called to make this determination.

Under existing law, after transport to the evaluation facility, the admitting physician or certified psychologist shall evaluate whether reasonable grounds exist to detain the proposed client for evaluation and treatment, and if reasonable grounds are found the client shall be detained. If the admitting physician or certified psychologist determines that reasonable grounds do not exist to detain the client they shall not be detained. At the evaluation facility the client is informed of the purpose and possible consequences of the proceedings, the right to a hearing within seven days, the right to counsel, the right to communicate with an attorney and a mental health professional of their own choosing.

Scope of Practice

The Nursing Board and the Regulation and Licensing Department (RLD) have all provided comments on SB 271 and no concerns were submitted about the capacity of these licensed professionals to perform these evaluations. In addition, the RLD has provided the following background on its licensees that are in the bill:

Licensed Professional Clinical Mental Health Counselor (LPCC) – Total number of licensees 1875.

- Holds a master's degree in Counseling or Counseling related field from an accredited institution and has a total of no less than 48 graduate semester hours in the mental health core curriculum
- Has completed 1000 graduate client contact hours of postgraduate professional counseling under appropriate supervision consisting of at least one hundred supervised hours.
- Has successfully completed the National Counseling exam and the National Counseling Mental Health Clinical exam.

Licensed Marriage and Family Therapist (LMFT) – Total number of licensees 314

- Holds a master's or doctoral degree with a focus in Marriage and Family Therapy and meets the requirements of the marriage and family core curriculum field from an accredited institution.
- Has a minimum of two years of postgraduate marriage and family therapy experience consisting of 1000 graduate client contact hours and two hundred hours of appropriate clinical supervision
- Has successfully completed the marriage and family examination

Licensed Independent Social Worker – Total number of licensees 1668

- Holds a master's in social work from a graduate school of social work accredited by the council on social work education.
- Has two years and 3600 hours of postgraduate social work practice under appropriate supervision
- Has successfully completed the Association of Social Work Board Clinical Exam.

The Human Services Department (HSD) notes that among the implications of bill is that the certification of non-medical behavioral health practitioners could result in an individual being detained in a jail or detention facility for up to twenty-four hours. Although other states do permit these levels of practitioners to initiate emergency or other protective custody detention, some require specific training in civil involuntary detention procedures; others require a minimum of one or more years of experience in providing mental health care.

ADMINISTRATIVE IMPLICATIONS

If SB 271 is enacted, the Department of Health's (DOH) New Mexico Behavioral Health Institute (NMBHI) Adult Psychiatric Division could see an increase in emergency certifications, and will in turn need to do more intake assessments and perhaps more admissions. This will take

more staff time and could impact their census and on-call hours, as many emergency admissions occur after hours. If an admission does not occur staff time and resources could still be impacted because of the initial assessment and the need to have some plan to return the individual to their home.

RELATIONSHIP

HB 220 is similar to SB 271 in that it expands the number of licensed professionals that can perform certifications that an individual presents a likelihood of serious harm to himself or herself and that immediate detention for an emergency evaluation is necessary.

TECHNICAL ISSUES

On page 10, line 9, the bill strikes “the allegations in the petition, his” to clean up the current section of statute’s discussion of the rights of client upon arrival at an evaluation facility. This language does not belong in this section because there is no petition to a court used as part of the process to certify that a person is a danger to themselves or others and needs to be detained for an evaluation. Language requiring a petition to the court (and providing for a client to receive a copy) is in Section 43-1-11, Commitment of Adults for a Thirty-Day Period, which requires the petition to be filed within five days of admission.

SB 271 removes the word “licensed” before references to a physician, and the reason for this removal is unclear. Removing the term could have unintended consequences in future interpretation of the statute, given that the word has been in statute for years, and certainly it is not intended to remove any requirement for licensure of physicians in terms of their involvement in processes outlined in the Mental Health Code. The current definition of physician only refers to admitting privileges and that is not the only context in which physicians are mentioned in the Mental Health Code (see Section 43-1-15, NMSA 1978).

In response to this DOH concern, Legislative Council Service (LCS) staff stated that removal of the term “licensed” is not designed to change anything in statute, but was done to clear the statute impacted by SB 271 of redundant language. According to the LCS staff by definition “physician” means a licensed physician.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

There will continue to be a shortage of individuals that can intervene in these cases. Only a physician or certified psychologist will be able to certify the need for an emergency evaluation. Peace officers currently have the authority to transport an individual for emergency evaluation under certain circumstances.

GG/svb