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

SPONSOR Trujillo, CH **ORIGINAL DATE** 01/30/15 **LAST UPDATED** 02/06/15 **HB** 81

SHORT TITLE Patient Safe Staffing Act **SB**

ANALYST Hanika-Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	**FY16**		
	$100.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From
Superintendent of Insurance (OSI)
Department of Health (DOH)
Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

House Bill 81 proposes the Patient Safe Staffing Act as follows:

- Section 1 cites the title;
- Section 2 provides definitions such as "committee" to mean a nursing staffing committee, "hospital" to mean a public or private hospital, and "unit" to mean a nursing unit;
- Section 3 creates a nursing staffing committee at each hospital and includes 7 direct patient care nurses and 4 other "qualified" persons at the discretion of the hospital;
- Section 4 describes the committee's duties including developing a staffing plan and outcome indicators for each unit, and annual reviews of those plans and indicators;
- Section 5 describes staffing plan requirements, including minimum number of nurses and ancillary staff needed based on acuity and other variables, taking into account circumstances such as if a rural or acute care hospital, ensuring nurses have orientation before an assignment, and specifying when compliance with the plan can be waived;
- Section 6 requires staffing levels take into consideration patient acuity, technology, and nurse mix to ensure a unit has enough staff with appropriate education and experience;

- Section 7 allows a nurse to refuse an assignment if lacking the education, training and experience to ensure patient safety, or the assignment is outside their scope of practice;
- Section 8 requires hospitals at the start of each shift post a report in each unit that contains actual patient numbers, staffing level according to the plan and actual staffing level, and report this information to DOH quarterly including daily changes in census;
- Section 9 details DOH's duties including how the hospital's quarterly reports will be received and made public, periodic audits of the information, and enforcing compliance;
- Section 10 includes whistleblower protections for all hospital employees; and
- Section 11 provides an appropriation of $100 thousand from the general fund to assist DOH in undertaking the duties and activities as described above in year one.

FISCAL IMPLICATIONS

The appropriation of $100 thousand contained in this bill is a recurring expense to the general fund. Any unexpended balance remaining at the end of FY16 shall revert to the general fund.

The bill allocates $65 thousand for audit staff and $35 thousand to post quarterly reports.

SIGNIFICANT ISSUES

There are no specific requirements for nurse and ancillary staffing levels in state or federal law.

PERFORMANCE IMPLICATIONS

The AGO notes potential conflict between the bill addressing actions that nurses are permitted to take and the New Mexico Board of Nursing's role in the licensing and regulation of nurses.

DOH states that the bill places decision-making authority for staffing levels with a committee and removes it from the Director of Nursing (DON). The United States Centers for Medicare and Medicaid Services (CMS) requires that the hospital's DON make decisions about staffing levels.

ADMINISTRATIVE IMPLICATIONS

The bill requires DOH to audit hospitals "periodically". DOH reports it only "surveys" hospitals when an initial license is requested or when directed to do so by CMS. DOH does not currently survey hospitals for annual licensure renewals and additional staff and funding would be needed.

OTHER SUBSTANTIVE ISSUES

Similar to hospitals in other states, NM hospitals are shifting to progressive beds (a mix of acute care, medical surgical and step-down care). This has expanded the scope of nurses to care for patients whose care requirements differ during the course of hospitalization without physically moving the patients to a different unit and risking communication and medication errors. It is unknown if the pre-established staffing levels as described in the bill would offer hospitals the flexibility to adjust to this approach and other innovative staffing approaches as they evolve.

AHO/je/bb/je