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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/17/17

SPONSOR Rue LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Posting of Medical Licensing Info SB 68

ANALYST Chilton

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	\$31.8	\$190.4	\$190.4	\$411.8	Recurring	Uncertain; see fiscal implications below

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Regulation and Licensing Department (RLD)  
 New Mexico Board of Medical Examiners (MB)  
 New Mexico Medical Society (NMMS)

### SUMMARY

#### Synopsis of Bill

Senate Bill 68 requires that both the New Mexico Board of Medical Examiners (Section 1 of the bill) and the New Mexico Board of Osteopathic Medical Examiners (Section 2) devote resources to expand the ability of New Mexicans to obtain information about allopathic physicians (MDs) and osteopathic physicians (DOs), respectively, from the websites of both boards. The bill specifies that the following information would be available:

- Name
- Photograph less than 3 years old
- Type of license held by the licensee
- Specialty of licensee
- Criminal history
- Formal disciplinary actions taken by

- The board, including the effect of rulings on the licensee’s license
- A health facility
- Agencies of the US or foreign governments
- Amounts of medical malpractice payments made by or on behalf of the licensee.

The bill would amend Section 61-6-31.1 NMSA 1978, which now requires that the Board of Medical Examiners to hire an information technology project manager, to state that this employee be charged with making the above website information available. The bill would establish a new section to the Osteopathic Medicine Act (Section 61-10 NMSA 1978), specifying that the same information be made available on the Board of Osteopathic Medicine website, but not specifying the hiring of information technology personnel.

### **FISCAL IMPLICATIONS**

The Medical Board states that its information technology needs are contracted to the New Mexico Department of Information Technology and that the requirements of SB 68 would increase the contract price or require the hiring of an in-house technology person. MB states, further, that

The NMMB processes approximately 3,500 licensing applications and renewals each year and each of those would include significant number of documents to be uploaded into a searchable database. Any information that the Board is legally bound to upload could very well require an additional part time to full time employee for scanning, redacting, summarizing and entering the required information into a database for upload.

MB goes on to estimate a cost of approximately \$16 thousand for the remainder of the current fiscal year and then \$95 thousand for each subsequent year.

Responding for the New Mexico Board of Osteopathic Medicine, RLD states that its costs for meeting the requirements of SB 68 would likely be similar to those of the MB; thus the fiscal implication of the two sections of SB 68 would be about double that estimated by MB.

Section 1 of SB 68 specifies that the MB’s portion of the cost be borne through “expenditures from unexpended and unencumbered cash balances in the board of medical examiners fund,” but it does not specify in Section 2 from which fund the additional expenses for the Osteopathic Medicine board would be taken.

### **SIGNIFICANT ISSUES**

According to Consumer Reports, New Mexico’s two boards score poorly in transparency, being assigned 34 points out of 100 possible for MB, 22 for the Board of Osteopathic Medicine. The New Mexico MB ranks low for search capabilities, higher for complaint and board information and identifying doctor information and in the lowest rank for board disciplinary actions, federal disciplinary actions, malpractice payouts and convictions. The NM Osteopathic Medicine Board ranks even lower with a ranking of in the medium category for search capability and identifying doctor information, but in the lowest category for everything else. (Overall, only Indiana and Mississippi rank lower than the NM Osteopathic Medicine Board. Thirteen of the nation’s boards rank lower than NM MB). See the Consumer Reports article at <http://www.consumerreports.org/cro/health/doctors-and-hospitals/what-you-dont-know-about->

[your-doctor-could-hurt-you/index.htm](http://your-doctor-could-hurt-you/index.htm).

The Medical Board responds that it has “serious concerns regarding the publication of information from additional third party sources [such as hospital disciplinary actions] that are not the basis for disciplinary action by the NMMB.” It notes that it does publish the results of all MB disciplinary actions. A recent user notes that it is easy to access this information on the MB and the Osteopathic Medical Board websites, but that there are no links to information on malpractice payouts or hospital disciplinary actions.

The New Mexico Medical Society expressed similar concerns to those mentioned by MB: that information not currently on the MB website “are either private, the purview of the regulatory board, or items able to be used in a subjective and prejudicial manner for/against the doctor... If SB 68 were to be enacted, a patient could read that a hospital took a disciplinary action against a physician but they would not have any facts of the issue, whether or not the charges were overturned or unjustified, or see any of the physician’s rebuttals...”

The NMMS also objects that the publication of a photograph of the physician “allows prejudgments of a physician based on sex, race, attractiveness, and age.”

## **PERFORMANCE IMPLICATIONS**

According to the Medical Board,

The proposal to increase the extent and detail of the information to be posted on the website is one that has been considered by all Medical and Osteopathic Boards in the United States, beginning in the 1970’s. There are two states that exemplify how complex and difficult this process can be, notably because of the need to discuss what the information means, or does not mean, and how the reader should interpret the information posted. Attached to this document is how the Physician profile section of one of the two exemplary states: Massachusetts (Virginia is the other). In the Physician profile, in such a section as, for example, Malpractice History, there is cogent advice concerning how to interpret the data and information presented, especially since the spectrum of reasons for and implications of malpractice is enormous. Here is the URL of the Massachusetts Board of Registration in Medicine where the Physician profile is discussed in detail, with the caveats mentioned above:

[http://profiles.ehs.state.ma.us/Profiles/Pages/Help/Viewing\\_a\\_Physician\\_Profile.htm#Malpractice\\_Information](http://profiles.ehs.state.ma.us/Profiles/Pages/Help/Viewing_a_Physician_Profile.htm#Malpractice_Information)

This information, contained in the attachment, would appear to indicate that the Massachusetts medical board (ranked third in the nation by Consumer Reports for transparency) is satisfied that consumers would be able to interpret the data on its website, using the caveats detailed in their document.

## **ADMINISTRATIVE IMPLICATIONS**

Additional personnel or contract personnel time would be required by both boards to maintain the additional information required by SB 68.

**TECHNICAL ISSUES**

As noted, the source for funding of the additional expenses for the Osteopathic Medicine board is not indicated.

**ALTERNATIVES**

MB suggests the possibility of creating a committee to examine what information would be appropriately made available on the websites.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The websites of the MB and the Board of Osteopathic Medicine would remain as they are, making easily available actions of the boards themselves, but not the other information required by SB 68.

LAC/sb