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## FISCAL IMPACT REPORT

SPONSOR Ingle ORIGINAL DATE 1/31/2017  
LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_  
SHORT TITLE Nurse Practitioner and Midwife No Compete SB 128  
ANALYST Chenier

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

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		NFI	NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Senate Bill 82 which would amend the same section and void some non-competete provisions.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Board of Nursing (BN)

Medical Board (MB)

Department of Health (DOH)

### SUMMARY

#### Synopsis of Bill

Senate Bill 128 would amend Section 24-1I-1 NMSA 1978 by adding certified nurse practitioner and certified nurse midwife to the list of covered practitioners against whom a non-competete clause in a written contract is unenforceable.

### FISCAL IMPLICATIONS

No fiscal impact noted

### SIGNIFICANT ISSUES

Board of Nursing states the bill does not include Clinical Nurse Specialists (CNS). Clinical Nurse Specialists are independent advanced practice registered nurses who, like nurse practitioners, can practice independently and can make independent decisions related to the care

of their patients. Many CNSs in New Mexico are psychiatric/mental health providers that provide counseling, prescribe medication, admit patients to facilities and order diagnostic lab tests. If the other three kinds of Advanced Practice Registered Nurses (CRNA, CNP, CNM) are included, then CNSs should also be included.

DOH stated that non-competition agreements (also known as covenants not to compete or restrictive covenants) are employment contracts used by employers to limit the ability of an employee to compete with the employer by starting or working in a similar business in competition with the employer, or by stealing trade secrets. Enforceable agreements must strike a balance between protecting the employer's legitimate business interests from an unfair competitive advantage with the employee's right to work in a field for which he or she is trained.

In New Mexico, 24-11-2 NMSA makes non-compete provisions unenforceable for certain health care practitioners, including dentists, osteopathic physicians, physicians, podiatrists, and certified registered nurse anesthetists. SB128 would add certified nurse practitioners and certified nurse midwives to that list. NMDOH licenses certified nurse midwives. There are currently 210 actively licensed certified nurse midwives in New Mexico.

## **PERFORMANCE IMPLICATIONS**

This bill relates to DOH FY17 through FY19 Strategic Plan, Result 2: An Engaged, Empowered, and High-performing Workforce that Supports Health Status Improvement.

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