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FISCAL IMPACT REPORT

ORIGINAL DATE 02/01/17

SPONSOR McSorley **LAST UPDATED** _____ **HB** _____

SHORT TITLE Advanced Chiropractor Licensure **SB** 150

ANALYST Amacher

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
	Indeterminate but Insignificant	Indeterminate but Insignificant	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Medical Board (MB)
Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

Senate Bill 150 amends and enacts new sections of the Chiropractic Physician Practice Act (Chapter 61-4 NMSA 1978) to provide for certification of two levels of advanced practice chiropractic physicians. Educational and licensure requirements are provided in this bill. Collaboration is required between the New Mexico Medical Board, the Board of Pharmacy and the Chiropractic Board in adopting rules that would provide guidance to a level one certified advanced practice chiropractic physician. SB 150 expands the definition of “chiropractic” to that of “chiropractic medicine”.

FISCAL IMPLICATIONS

SB 150 does not specify application fees for the advanced certifications. It is unknown how many of the current licensees (approximately 660) will pursue the advanced certifications; therefore, the impact on revenue is indeterminate but likely to be insignificant. RLD indicated no fiscal impact to the department.

SIGNIFICANT ISSUES

Senate Bill 150 amends and enacts new sections of the Chiropractic Physician Practice Act (Chapter 61-4 NMSA 1978) to provide for certification of two levels of advanced practice chiropractic physicians. Educational and licensure requirements are provided in this bill. Collaboration is required between the New Mexico Medical Board, the Board of Pharmacy and the Chiropractic Board in adopting rules that would provide guidance to a level one and level two certified advanced practice chiropractic physician.

SB 150 expands the definition of “chiropractic” to that of “chiropractic medicine” to include diagnosis and treatment of a condition for which the chiropractic physician has been educated and trained. SB 150 outlines a few exclusions in the definition of “chiropractic medicine”:

- the practice of operative surgery;
- the practice of acupuncture; and,
- the prescription, administration, injection or dispensing of dangerous drugs; provided that a level one, or a level two, certified advanced practice chiropractic physician may prescribe, administer, inject and dispense dangerous drugs.

“Chiropractic assistant” is defined as a person who practices under the on-premises supervision of a licensed chiropractic physician. SB 150 defines “dangerous drug” consistent with federal laws of scheduled substances. A “dangerous drug” is defined as a drug, other than a controlled substance enumerated in Schedule I of the Controlled Substances Act, that because of a potentiality for harmful effect or the method of its use or the collateral measures necessary to its use is not safe except under the supervision of a chiropractic physician and hence for which adequate directions for use cannot be prepared. No one may use, in any sense of the word “use”, substances specified in Schedule I. A Schedule I substance does not have an acceptable medical use in the United States.

SB 150 makes clear that the scheduled substances listed in Schedule I and II of the Controlled Substances Act are exempted to the scheduled substances that may be utilized by a chiropractic physician. Prescriptive use of those substances in Schedules III, IV, and V may be utilized by chiropractic physicians as licensed.

The chiropractic board’s (board) membership, as outlined in SB 150, must include someone who is a level one, or a level two, certified advanced practice chiropractic physician. And the board may establish a fee for the certification. Additional requirements in SB 150 ensure that the board’s membership does not have an officer or employee who is financially interested in any school or college of chiropractic medicine, allopathic medicine, surgery or osteopathic medicine.

In collaboration with the New Mexico Medical Board and the Board of Pharmacy, the board must adopt rules that would provide guidance to a level one certified advanced practice chiropractic physician for the use of any other substance that is not listed in Section 7 (C) (see

page 15 of SB 150). This collaboration is also necessary to the development and oversight of the expanded education, certification and licensure requirements.

As proposed in Section 7, a level one certified advanced practice chiropractic physician may inject and dispense herbal medicines. The amendments also add carbohydrates, sugars, alcohols, lidocaine, carbocaine and bupivacaine to the narrow list of specific substances a level one certified advanced practice chiropractic physician may use in their practice (prescribe, administer, inject and dispense.) Lidocaine, carbocaine and bupivacaine belong to the family of medicines called local anesthetics.

SB 150 adds a new section of the Chiropractic Physician Practice Act (Chapter 61-4 NMSA 1978) defining the authority of a level two certified advanced practice chiropractic physician. A level two certified advanced practice chiropractic physician may prescribe, administer, inject and dispense substances not recorded under Schedule I and Schedule II of the Controlled Substances Act. Notably, SB 150 requires the following for a level two certification:

- holds a current license to practice chiropractic medicines;
- successfully completed the level one certification program approved by the board, and maintains the certification;
- successfully completed an organized program of medically supervised clinical rotation of now fewer than 650 hours in core areas of instruction that include clinical pharmacology; evidence-based clinical assessment; clinical pharmacotherapeutics; primary care case management; and patient safety and standards of primary care:
- obtained a declaration that the applicant has the prescribed clinical experience from:
 - a supervising medical doctor, osteopathic physician, certified nurse practitioner or a level two certified advanced practice chiropractic physician; and
 - the educational intuition where the applicant successfully completed a supervised clinical rotation.

SB 150 further outlines annual continuing education requirements as guided by rules of the board for no less than 20 hours per year.

OTHER SUBSTANTIVE ISSUES

RLD notes the bill does not require either certification for a level one, or two, a certified advanced practice chiropractic physician to utilize the Prescription Monitoring Program to look up patients current prescriptions or log any new prescriptions. RLD and the Board of Pharmacy recommend this be addressed in SB 150 to support consistency between the Chiropractic Board and others (ex: pharmacists) as required by the NM Drug, Device and Cosmetic Act (Chapter 26-1-16.1 NMSA 1978).

RLD indicates there is no provision for the chiropractic board to adopt a rule in collaboration with the MB or the Board of Physicians regarding the drug formulary.

For over eight years, the MB has not changed their position on this proposed legislation. The

MB expressed concerns that the term “chiropractic medicine” is misleading and represents a departure from the well-defined profession of chiropractic. The MB feels the term “chiropractic physician” is a misnomer, and only two professions to which the term “physician” can be correctly applied: allopathic and osteopathic physician (medical or surgical physician.) The number of hours (90 as proposed in SB 150) for a level one certified advanced practice chiropractic physician is considered inadequate by the MB. The MB considers it a tremendous leap from the well-established profession of chiropractic to the practice of medicine and the prescription of scheduled drugs.

RLD noted that New Mexico is the only state in the United States that currently issues a controlled substance license to a chiropractor. A controlled substance license may be issued at this time so a chiropractor may use topical testosterone, a Schedule III substance. RLD acknowledges the industry is split on the subject of expanded formularies and that even the National Association of Boards of Pharmacy does not address chiropractic medicine. In the event SB 150 is enacted, it would represent an unprecedented expansion of the scope of practice for chiropractors in New Mexico.

JMA/sb/al