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FISCAL IMPACT REPORT

SPONSOR <u>Serrato</u> SHORT TITLE <u>Long-Term Care Facility Dementia Training</u>	LAST UPDATED <u>3/3/22</u> ORIGINAL DATE <u>2/21/23</u> BILL NUMBER <u>House Bill 446/aHCPAC</u> ANALYST <u>Klundt</u>
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ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	\$19.7	\$173.8	\$105.1	\$298.6	Recurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent version of this legislation.

Sources of Information

LFC Files

Responses Received From

Aging and Long-Term Services Department (ALTSD)
 Department of Health (DOH)

SUMMARY

Synopsis of HCPAC amendment to House Bill 446

The House Consumer and Public Affairs Committee amendment to House Bill 446 clarifies on page 2, section D, the definition of a long-term care facility to add “that is not otherwise required to provide at least four hours of dementia care training under state or federal law.”

The second proposed amendment, Page 5. Under Section 24-17B-3 Training Required, subsection (F) changes “Shall” to “May” in relationship to contracts for services of direct care staff to include a requirement in the contract that the staff member has received dementia training that satisfies the requirements of the Long-term care facility dementia training act.

The Third proposed amendment, Page 6 Section 3 (C) Promulgate rules, Section (2) requiring dementia care training to be included as part of an annual continuing education training requirement for direct care service staff members at long term care facilities.

Synopsis of Original House Bill 446

House Bill 466 amends the Long-Term Care Facility Dementia Training Act’s requirements for training for direct care service staff.

FISCAL IMPLICATIONS

DOH reported the following estimated additional operating budget impact. The cost for the Division of Health Improvement (DHI) to promulgate the rule changes will be \$68.8 thousand. DHI would be required to create and maintain a full-time long-term care training coordinator licensed as a registered nurse with dementia expertise. The on-going cost to employ an additional qualified registered nurse with dementia expertise will be \$105,020.60 annually.

SIGNIFICANT ISSUES

ALTSD reported:

Operationalizing the Long-Term Care Facility Dementia Training Act (Act) requires collaboration among several stakeholders, including New Mexico Aging and Long-Term Services Department (ALTSD), New Mexico Department of Health (DOH), long-term care (LTC) facilities, the New Mexico Health Care Association/New Mexico Center for Assisted Living (NMHCA/NMCAL), and the New Mexico Alzheimer's Association. The primary purpose of the act is to establish training standards for certain health care workers in LTC settings related to recognizing signs and symptoms of Alzheimer's and dementia.

HB446 removes requirements related to ongoing training needs such as continuing education and does not provide an alternative recommendation for ensuring direct-service providers have routine expectations and access to updated or evolving information related to the care of individuals suffering from Alzheimer's or other dementia-related diseases.

However, the act as currently written places an undue administrative burden on LTC facilities, contractors, and certain direct service staff – specifically medical staff (doctors and nurses). HB446 mitigates the barriers to efficient training and certification of direct service staff who do not otherwise meet the required training standards and exempts providers for whom this type of training is mandated as part of their medical credentialing. It also relieves the administrative burden of LTC facilities currently set forth in the act by proposing alternative approaches to meeting training requirements that still comply with DOH standards.

DOH reported:

HB446 is repetitive of current federal and state laws, regulations and statutes which govern the requirements for long term care facilities and the dementia training requirements. It is unclear if facilities who are in compliance with existing federal and state training requirements, must also comply with an additional and duplicative dementia training requirements of HB446.

Please note the following federal regulations and requirements:

§483.95 Training Requirements. Training topics must include but are not limited to

§483.95(g) Required in-service training for nurse aides. In-service training must

§483.95(g)(1) Be sufficient to ensure the continuing competence of nurse aides, but must be no less than 12 hours per year.

§483.95(g)(2) Include dementia management training and resident abuse prevention training.

§483.40(a) The facility must have sufficient staff who provide direct services to residents with the appropriate competencies and skills sets to provide nursing and related services to assure resident safety and attain or maintain the highest practicable physical, mental and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care and considering the number, acuity and diagnoses of the facility's resident population in accordance with §483.70(e). These competencies and skills sets include, but are not limited to, knowledge of and appropriate training and supervision for: 483.40(a)(1) Caring for residents with mental and psychosocial disorders, as well as residents with a history of trauma and/or post-traumatic stress disorder, that have been identified in the facility assessment conducted pursuant to §483.70(e), and [as linked to history of trauma and/or post-traumatic stress disorder, will be implemented beginning November 28, 2019 (Phase 3)] §483.40(a)(2) Implementing non-pharmacological interventions.

§ 483.12, facilities must also provide training to their staff that at a minimum educates staff on

§483.95(c)(3) Dementia management and resident abuse prevention

§483.95(c) All facilities must develop, implement and permanently maintain an effective training program for all staff, which includes, at a minimum, training on abuse, neglect, exploitation, misappropriation of resident property, and dementia management, that is appropriate and effective, as determined by staff need and the facility assessment (as specified at §483.70(e)).

The following New Mexico regulations require direct care staff to have training consistent with the care to be provided.

Please note the following State of New Mexico regulations for Nursing Homes:

NMAC 7.9.2.27 (E) (3) Assignments: Employees shall be assigned only to resident care duties consistent with their training.

Please note the following State of New Mexico regulations for Assisted Living Facilities:

NMAC 7.8.2.16 (B) (3) Assignments: Employees shall be assigned only to resident care duties consistent with their training.

NMAC 7.8.2.17.A. Staff Training: Training and orientation for each new employee and volunteer that provides direct care shall include a minimum of sixteen (16) hours of supervised training prior to providing unsupervised care for residents.

B. Documentation of orientation and subsequent trainings shall be kept in the personnel file at the facility.

C. Training shall be provided at orientation and at least twelve (12) hours annually, the orientation, training and proof of competency shall include:

(9) methods to provide quality resident care;

NMAC 7.8.2.20 (A) (14) facilities representing their services as “specialized” must disclose evidence of staff specialty training to prospective residents

Here is a specific example of existing regulations requiring dementia training.

NMAC 7.8.2.69 (C) C. Employee training. In addition to the training requirements for all assisted living facilities, pursuant to 7.8.2.17 NMAC, all employees assisting in providing care for memory unit residents shall have a minimum of twelve (12) hours of training per year related to dementia, Alzheimer's disease, or other pertinent information.

HB446 does not specify if the existing federal and state training requirements can be considered as fulfilling the dementia training as required in HB446 as written it is an additional and duplicative requirement for facilities to complete.

HB446 does not include an appropriation, as proposed, the cost of implementation to the NMDOH Division of Health Improvement is \$173,825.66 initially in FY24, to promulgate rule change and add a full-time Registered Nurse, long-term care facility training coordinator with dementia expertise. In addition, DHI would have an additional recurring cost of \$105,020.60 annually.

HB446 Definitions do not identify other licensed medical professionals who may have professional education, experience and who may have specialized training or education in geriatric care such as, a licensed practical nurse or nurse practitioner or physician extender.

TECHNICAL ISSUES

The effective dates in HB446 are aligned with passage of HB250 in 2021 and should be reviewed and amended as necessary to align with passage of HB446.

HB446 does not address how LTC facilities ensure direct-care staff meet training requirements of the act during periods of time in which the facility does not have a training that DOH has approved as meeting the requirements of the act.

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