

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Tallman</u>	<b>LAST UPDATED</b> _____ <b>ORIGINAL DATE</b> <u>2/1/2023</u>
<b>SHORT TITLE</b> <u>Chiropractic Board Changes</u>	<b>BILL NUMBER</b> <u>Senate Bill 110</u>
	<b>ANALYST</b> <u>Anderson</u>

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

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal			

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

#### Duplicates

Relates to House Bill 448 (2019 Session) and Senate Bill 150 (2017 Session) and previous versions of the bill, which did not pass

#### Sources of Information

LFC Files

Responses Received From  
 Regulation and Licensing Department (RLD)

No Responses Received From  
 New Mexico Medical Board  
 Board of Pharmacy

## SUMMARY

### Synopsis of Senate Bill 110

Senate Bill 110 makes changes to the New Mexico Chiropractic Board:

Provides that members of the board shall be appointed by the governor for staggered five year terms, and removes the prior language allowing terms of less than five years. The bill also removes the requirement that a list of five names for each professional member vacancy shall be submitted by the New Mexico chiropractic associations to the governor for consideration in the appointment of board members.

Limits board member terms to two full consecutive terms and one full term after an individual's three-year hiatus from service on the board.

Removes language allowing board members to serve until successors have been appointed and qualified from Section 61-4-3(B) NMSA 1978.

Changes the elected board members from a “chair and secretary-treasurer” to a “chair and vice-chair.”

Adds a new section (Section 4) to the Chiropractic Physician Practice Act (CPPA) entitled “Temporary License without Examination--Federal or State Disaster Declaration--Fees.” Under this new section, a temporary license may be issued without examination to a person who is a licensed chiropractic physician practicing in good standing in a state in which a federal or state man-made or natural disaster has been declared and, during such time, the chiropractic physician cannot practice in the area of the declared disaster in the chiropractic physician's licensing state, if the chiropractic physician: (1) is of good moral character; and (2) is a graduate of a chiropractic college having status with the accrediting commission of the council on chiropractic education or equivalent criterion. A temporary license without examination issued pursuant to this new section, can be issued for no more than three months immediately following the lifting of the declared disaster, or the duration of the remainder of the term of the license issued to the chiropractic physician in the other state. The temporary license can be issued within 30 days of application. The bill limits the amount the board may impose to no more than 25 percent of the current licensing fee.

Adds a new section entitled “Temporary License Without Examination--Substitution--Fees.” Per this new section, a temporary license may be issued without examination to a person who is a licensed chiropractic physician and practicing in another state for no more than 12 months, and for the purpose of serving as a substitute for a chiropractic physician who is licensed, on vacation, on family medical leave, or unable to perform chiropractic services due to illness, injury, pregnancy or other medical conditions approved by the board. The temporary license can be issued within 14 days of application. This section indicates the board may impose a fee of no greater than 25 percent of the current licensing fee for a license issued pursuant to this section.

Changes the title from “Exemptions” to “Applications and Examination Exemptions” and adds four additional exemptions to Sections 61-4-4 (Applications) and 61-4-6 (Examinations).

Application exemptions apply to chiropractic physicians licensed in other jurisdictions of the US, or are credentialed to practice in another country. Application exemptions also apply if a chiropractic physician is teaching, demonstrating, or providing chiropractic services in connection with an educational seminar in this state for 10 days or less.

Examination exemptions apply to chiropractic college professors, post-graduate educators, or instructors holding a doctor of chiropractic degree endorsed by a chiropractic college. Further examination exemptions include individuals who are teaching, demonstrating or providing chiropractic services in connection with an educational seminar in this state for 10 days or less.

Exemptions also apply to chiropractic physicians licensed in other jurisdictions of the US who are practicing in good standing in that jurisdiction, and who are practicing in this state on a single, temporary assignment for a specific sporting or performing arts event under the following

provisions: the chiropractic physician is employed or designated in the chiropractic physician's professional capacity by a sports or performing arts entity to practice chiropractic for a specific sports or performing arts event in this state; the chiropractic physician's practice is limited to members, coaches, and staff of the team or event for which the chiropractic physician is employed or designated; and, the scope of the chiropractic physician's practice is limited to the practices permitted pursuant to the laws of the state in which the chiropractic physician is licensed but not to exceed the scope permitted pursuant to the Chiropractic Physician Practices Act.

Exemptions further apply to chiropractic physicians licensed in another jurisdiction of the US and without licensure in this state during a state or federal disaster on the following conditions: the chiropractic physicians only practice in the area of the declared disaster or within a contiguous county; the scope of practice permitted is pursuant to the law of the state in which the chiropractic physician is licensed but not to exceed the scope permitted pursuant to the Chiropractic Physician Practices Act.

This bill does not contain an effective date, and as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed.

## **FISCAL IMPLICATIONS**

The Regulation Licensing Department (RLD) said that fees charged for the issuance of temporary licenses created under Senate Bill 110 may slightly increase licensing revenue, but the agency did not specify what amount due to difficulties of estimating what state or federal disasters might occur, or other need that might arise for temporary licensure in this profession. RLD anticipates a minimal impact to its operating budget.

## **SIGNIFICANT ISSUES**

New Mexico is the only state that licenses advanced chiropractic physicians, according to the National Conference on State Legislatures (NCSL). South Carolina's legislature introduced a bill in 2011 to license advanced chiropractic physicians, but it did not pass; no other attempts to establish the category can be found on the NCSL database.

RLD said removing language from Section 61-4-3(B) NMSA 1978 which provides that appointed board members serve until their successors have been appointed and qualified contradicts Article XX, Section 2 of the Constitution of the State of New Mexico.

RLD also indicated Section 4, New Material, temporary license without examination (declared disaster), restricts the licensing fee for this temporary license to "a fee of no greater than 25 percent of the current licensing fee for a license issued pursuant to this section." The new section does not implement licensing fees for this new temporary license. The same concern was raised for licensing under Section 5.

## **ADMINISTRATIVE IMPLICATIONS**

The third and fourth additional exemptions to Section 61-4-15 NMSA 1978 limiting the scope of chiropractic physician's practices pursuant to the Chiropractic Physician Practices Act might increase administrative operational costs to determine the scope of practice in the state in which the chiropractic physician is licensed.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

House Bill 448 (2019 Session) proposed changes to the Chiropractic Physician Practice Act (Section 61-4 NMSA 1978), primarily to give an expanded scope of practice to “advanced chiropractic physicians.” At that time, RLD was concerned that public health and safety may be affected if educational requirements would be reduced for advanced chiropractic physicians.

In 2017, Senate Bill 150 proposed to amend and enact 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 were provided in the bill. It stated that collaboration would be 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. That bill would the definition of “chiropractic” to that of “chiropractic medicine”.

## **TECHNICAL ISSUES**

In 2022, House Bill 191, Professional & Occupational Licensure Changes, outlined regulatory provisions regarding expedited licensure for Chiropractic Board. The rules specified applicants from certain states and US territories were not eligible for expedited licensure for advanced chiropractic physicians. More clarification may be needed in Senate Bill 110 to establish which individuals will be eligible for expedited licensure.

## **OTHER SUBSTANTIVE ISSUES**

SB110 does not address the advanced practice chiropractic certification and does not clearly state whether or not that category would be eligible for temporary licenses and exemptions for applications and examinations.

## **ALTERNATIVES**

The Regulation and Licensing Department suggested an amendment to the wording of Sections 4 and 5 to provide that licensing fees for a temporary license could be limited to “no more than 25 percent of the current licensing fee for a license issued pursuant to Section 61-4-4 NMSA 1978 of the Chiropractic Physician Practice Act for a chiropractic physician license.”

GA/al/ne