

# Chiropractors by Linda Siegle

2/7/2015

The new State consensus revenue projection was released this week based upon oil averaging \$60 per barrel. We may now have \$83 million new dollars for next fiscal year. This money will be used primarily for public schools, Medicaid and possibly tax cuts.

I provided your talking points to the committee for background analysis. Hearings on copay and prescribing could be late this coming week.

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## HB0122 SCOPE OF PRACTICE ACT

McMillan, Terry H.

**Scheduled:** 2/10/2015 in: HHC 8:30 AM

House Pre-filed Legislation [3] HHC/House Judiciary Committee-HHC

**Chiropracto** New Mexico Chiropractor

**Position:** Oppose

**Priority:** High

*This is a different twist on the bill from prior years. It requires the licensing board to first review then an interim committee. I hear there is a substitute bill.*

### Synopsis:

**House Bill 122 (HB 122)** provides for a process to evaluate proposed changes to the scope of practice act

### Analysis:

**House Bill 122 (HB 122)** creates a new act called the scope of practice act which provides for a process to evaluate proposed changes to the scope of practice of health professions.

Legislative committees or subcommittees will be assigned by the Legislative Council to review and make recommendations regarding proposed changes to the scope of practice.

HB122 allows a member or licensee of a licensing board to make written request to the respective board for a hearing concerning a proposed change. The board upon receipt of the request shall notify the Legislative Council, collect data, including information from the proponent, conduct a technical assessment with the assistance of a technical advisory group established for that purpose, provide its analysis, conclusion and any recommendations to the legislative council.

The Legislative Council shall assign a committee to review the proposed change of scope of practice. The committee shall also consider the analysis, conclusions, and recommendations of the licensing board. HB122 also requires the committee to ensure appropriate public notice of the committee's proceedings, invite testimony of persons with special knowledge of the field.

Assess the proposal using the criteria that includes potential harm or benefit to the health welfare and safety of the consumer, the impact on cost, the impact on access, and quality of health care. Finally, the committee will summarize its assessment, analysis, and recommendations in a final report to the legislature.

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## SB0021 COLLECTION & DISPOSAL OF UNUSED DRUGS

Padilla, Michael

**Scheduled:** 2/10/2015 in: SPAC 1:30 PM

Senate Pre-filed Legislation [1] Senate Public Affairs Committee/Senate Judiciary Committee-Senate Public Affairs Committee

**Chiropracto** New Mexico Chiropractor

*FYI*

### Synopsis:

**Senate Bill 21 (SB 21)** creates a Dangerous Drug Take-Back Program, requiring each pharmacy in the state to collect and dispose of dangerous drugs

### Analysis:

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**Senate Bill 21 (SB 21)** requires each pharmacy in the state to collect dangerous drugs and provide for their safe disposal. The Board of Pharmacy will establish funding and have authority to impose reasonable fines to cover implementation of this legislation.

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## SB0022 DRUG OVERPRESCRIBING HOTLINE

Padilla, Michael

**Scheduled:** in:

Senate Pre-filed Legislation [1] Senate Public Affairs Committee/Senate Judiciary Committee/Senate Finance Committee-Senate Public Affairs Committee

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### Synopsis:

Senate Bill 22 (SB 22), proposes the enactment of a new section of the New Mexico Drug, Device and Cosmetics Act to require the Board of Pharmacy to establish and operate a hotline for reports of prescribing practices of controlled substances suspected to be excessive or otherwise in violation of established prescribing standards. SB 22 makes an appropriation to establish and maintain the hotline.

### Analysis:

**Senate Bill 22 (SB 22)**, proposes to establish and operate a hotline for reports of prescribing practices of controlled substances suspected to be excessive, or otherwise in violation of, established prescribing standards. A new section of the New Mexico Drug, Device and Cosmetics Act of the seeks to establish a program to address the prescription of controlled substances that is suspected to be excessive or otherwise in violation of established prescribing standards

Section A proposes that prescribed standards be understood to include a twenty-four-hour telephonic hotline and publicly accessible internet web site to provide the public with a venue through which to report controlled substance prescribing practices that are suspected to be in excess of therapeutically indicated prescribing practices; as well as rules and procedures for investigation of such reports, and for working in conjunction with practitioner licensing boards to discipline practitioners for prescribing practices in violation of established standards."

Thus, in Section 2, SB 22 appropriates Two hundred fifty thousand dollars (\$250,000) from the General Fund to the Board of Pharmacy for expenditure in Fiscal Year 2016 to establish and operate an overprescribing hotline pursuant to Section 1 of this act for the recording and investigation of excessive prescribing of pain medication by medical practitioners. Any unexpended or unencumbered balance remaining at the end of Fiscal Year 2016 shall revert to the General Fund.

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## SB0190 DISCRIMINATION AGAINST HEALTH PROVIDERS

Papen, Mary Kay

**Scheduled:** in:

Senate Pre-filed Legislation [3] Senate Public Affairs Committee/Senate Judiciary Committee-Senate Public Affairs Committee



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*This language tracks with the ACA.*

**Position:** Support

**Priority:** High

### Synopsis:

Senate Bill 190 (SB190) enacts sections of the healthcare purchasing act and other statutes and laws of New Mexico. These include the New Mexico insurance code, the nonprofit health care plan law and the health maintenance organization law to provide that carriers may not discriminate against providers who work within their legal scope of practice

### Analysis:

**Senate Bill 190 (SB 190)** modifies multiple statutes to restrict carriers from providing care if the provider

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is duly licensed or certified. Hospitals may accept insured individuals even if they are not contracted with a carrier and carriers may not restrict hospitals from accepting insured as long as that hospital is licensed by the department of health. This section is referred to as hospital freedom of choice. SB190 does not define convalescent or nursing homes as hospitals.

Of other significance are the sections that modify various laws and statutes (listed above in the summary) that prohibit discrimination by carriers to providers who are acting within their scope of their license, certification or authority under the law. However, this is not a bill that allows any willing provider to contract with a carrier. Carrier may also make distinctions on reimbursement related to quality and performance measures.

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## SB0220 HMO CREDENTIALING REQUIREMENTS

Updated

Pirtle, Cliff R.

Scheduled: in:

[3] Senate Corporations Committee/Senate Judiciary Committee-Senate Corporations Committee [5] DP/a-Senate Judiciary Committee

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**Chiropracto** New Mexico Chiropractor

**Position:** Support

**Priority:** Medium

*Could make credentialing easier.*

### Synopsis:

**Senate Bill 220 (SB 220)** related to managed health care; amending and enacting sections of the health maintenance organization law to establish provider credentialing requirements and define "credentialing"; repealing a section of the New Mexico insurance code

### Analysis:

**Senate Bill 220 (SB 220)** modifies the health maintenance organization law with new definitions for credentialing and the credentialing process affecting carriers and providers. Also, the definitions for pharmacist including a clinical pharmacist are relocated for numbering purposes. The state superintendent of insurance is empowered and directed to develop a standardized credentialing application for medicaid plans in New Mexico.

Credentialing in SB220 means the process of obtaining and verifying information about a provider and evaluation of that provider when that provider seeks to become a participating provider.

The original definitions for pharmacist and pharmacist clinician are stricken for number purposes and reinserted for that same purpose. Pharmacist is a person licensed as a pharmacist pursuant to the Pharmacy Act and a pharmacist clinician means a pharmacist who exercises prescriptive authority pursuant to the Pharmacist Prescriptive Authority Act.

A new section referencing Medicaid credentialing and setting deadlines is provided in SB 220. This new section requires the superintendent to adopt a uniform credentialing process, the rules of which shall adopt a single credentialing application form for the credentialing of providers. A carrier shall not require a provider to submit information not required in the uniform credentialing application. Recredentialing shall be held to the same standard.

Initial credentialing shall not be required more than every three years. The carrier shall complete its review in forty five days and notify the provider within ten days of receipt of the application if it is incomplete in writing with an identifiable contact person.

A carrier shall reimburse a provider for covered health care services, in accordance with the provider's contracted reimbursement rate, for any claims from the provider that the carrier receives more than forty-five calendar days after the date on which the carrier received a credentialing application for that provider; provided that the provider has submitted a credentialing application and any supporting documentation that

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the carrier has requested in writing within the time frame established earlier in this section.

Also, if the carrier has failed to approve or deny the applicant's credentialing application within the time frame established in SB220, and the provider has no past or current license sanctions or limitations, as reported by the New Mexico medical board or another pertinent licensing and regulatory agency, or by a similar out-of-state licensing and regulatory entity for a provider licensed in another state.

A dispute regarding credentialing or recredentialing shall be governed by statute (Section 59A-46-11. SB 220 repeals section 59A-2-9.5 NMSA 1978. This repealed section has to do with the superintendent's establishment of licensing and credentialing rules following certain national standards.

**SCORC amendment to SB 220** The SCORC amendment to SB 220 states:

1. On page 6, line 20, strike "MEDICAID".,

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## SB0318 SUNSET DATES FOR CERTAIN AGENCIES

Cisneros, Carlos R.

Scheduled: in:

[3] Senate Public Affairs Committee/Senate Finance Committee-Senate Public Affairs Committee

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*Chiropractic included for 2021 new sunset date.*

### Synopsis:

**Senate Bill 318 (SB 318)** extends the dates certain state commissions and boards and their authorizing acts will terminate and be repealed pursuant to the Sunset Act.

### Analysis:

**Senate Bill 318 (SB 318)** extends the dates certain state commissions and boards will terminate and the actual dates they will cease to operate pursuant to the Sunset Act. The Bill also states that the Acts which authorized these boards will be repealed on the same day as the boards cease to operate.

Office of Military Base Planning and Support and the Military Base Planning Commission:

Terminate: July 1, 2021; Operate until: July 1, 2022. Also, effective July 1, 2022, Sections 9-15-48 through 9-15-51 NMSA 1978 are repealed.

Board of Optometry: Terminate: July 1, 2023; Operate until: July 1, 2024. Also, effective July 1 2024, the Optometry Act is repealed.

Chiropractic Board: Terminate: July 1, 2021; Operate until: July 1, 2022. Also, effective July 1, 2022, the Chiropractic Physician Practice Act is repealed.

New Mexico Board of Dental Health Care: Terminate: July 1, 2023; Operate until: July 1, 2024. Also, effective July 1, 2024, the Dental Health Care Act and the Impaired Dentists and Dental Hygienists Act are repealed.

Nutrition and Dietetics Practice Board: Terminate: July 1, 2021; Operate until July 1, 2022. Also, effective July 1, 2022, the Nutrition and Dietetics Practice Act is repealed.

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Board of Podiatry: Terminate: July 1, 2023; Operate until July 1, 2024; Also, effective July 1, 2024, the Podiatry Act is repealed.

New Mexico State Board of Psychologist Examiners: Terminate: July 1, 2021; Operate until July 1, 2022. Also, effective July 1, 2022, Professional Psychologist Act is repealed.

Board of Pharmacy: Terminate: July 1, 2023; Operate until: July 1, 2024. Also, July 1, 2024, the Pharmacy Act is repealed.

Speech-language Pathology, Audiology and Hearing Aid Dispensing Practices Board : Terminate: July 1, 2021; Operate until: July 1, 2022. Also, effective July 1, 2022, the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act is repealed.

Board of Social Work Examiners: Terminate: July 1, 2021; Operate until: July 1, 2022. Also, effective July 1, 2022, the Social Work Practice Act is repealed.

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**SB0359**

**PHYSICAL REHAB COST SHARING LIMITS**

O'Neill, Bill B.

**Scheduled:** in:

[3] Senate Public Affairs Committee/Senate Finance Committee-Senate Public Affairs Committee

**Chiropracto** New Mexico Chiropractor

**Position:** Support

**Priority:** High

*Hearing should be this week.*

**Synopsis:**

**Senate Bill 359 (SB 359)** establishes limits cost sharing for physical rehabilitation services by enact new sections in several acts and laws pertaining to healthcare. Those include The Health Care Purchasing Act, The New Mexico Insurance Code, The Health Maintenance Organization Law, and The Non-Profit Health Care Law

**Analysis:**

**Senate Bill 359 (SB 359)** enacts new sections of multiple laws and acts listed below for the purpose of placing limits on copayments and coinsurance on the rendering of physical rehabilitation services.

Generally the reference to each new section for the above referenced laws or acts can be found in an example such as the language used in the Health Care Purchasing Act which reads;

Group health coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act that offers coverage of physical rehabilitation services shall not impose a copayment or coinsurance on those physical rehabilitation services that exceeds the lesser of:

- (1) the copayment or coinsurance imposed for specialist services; or
- (2) one hundred twenty percent of the copayment or coinsurance amount imposed for primary care services.

Other laws and acts similarly modified are:

Chapter 59A, Article 22 NMSA 1978 which refers to the insurance code, Chapter 59A, Article 23, NMSA 1978 which also refers to the insurance code , The Health Maintenance Organization Law and, The Nonprofit Health Care Plan Law

A common set of definitions are included in each law or act that is subject to this new standardized section.

"Physical rehabilitation services" means services aimed at maximizing an individual's level of function or returning to a prior level of function that are provided by a licensed physical therapist, occupational therapist or chiropractic physician or other person licensed to provide the services.

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A definition for "primary care services" means the first level of basic or general health care for a person's health needs, including diagnostic and treatment services, initiation of referrals for other health care services and maintenance of the continuity of care when appropriate.

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## SB0367 OPTOMETRIST PRESCRIBING POWERS

Sanchez, Michael S.

Scheduled: in:

[3] Senate Public Affairs Committee/Senate Judiciary Committee-Senate Public Affairs Committee

**Chiropracto** New Mexico Chiropractor

**Priority:** watch

*FYI*

### Synopsis:

**Senate Bill 367 (SB 367)** provides optometrist with greater prescribing powers, repealing sections of the optometry act and making changes to the powers of the optometry board while amending sections of The New Mexico Drug, Device and Cosmetic Act to include optometrist as prescribing practitioners

### Analysis:

**Senate Bill 367 (SB 367)** among numerous modifications to the Optometry Act and others acts and laws cited in this bill, SB 367 first makes modifications to the definitions section of the Optometry Act. Under definitions the use of prescriptions is listed and expanded to now include "pharmaceutical agent that is regulated pursuant to the New Mexico Drug, Device and Cosmetic Act. Other definitions for prescriptions include contact lenses and ophthalmic lenses.

Under another section of the Optometry Act a considerable expansion of authority for the Optometry Board is provided in which it states that now: the board has the sole authority to determine what constitutes the practice of optometry in accordance with the provisions of the Optometry Act and has sole jurisdiction to exercise any other powers and duties under that act. The board may issue advisory opinions and declaratory rulings pursuant to the Optometry Act and rules promulgated pursuant to that act. Nothing in the Optometry Act shall be construed to allow any agency, board or other entity of the state other than the board to determine what constitutes the practice of optometry.

In another section pertaining to the ability of an optometrist to prescribe or administer, an expansion is inserted, to include: all pharmaceutical agents for the diagnosis and treatment of disease of the eye or adnexa; provided that an optometrist, may prescribe hydrocodone and hydrocodone combination medications, may administer epinephrine auto-injections to counter anaphylaxis; and shall not prescribe any other controlled substance classified in Schedule I or II pursuant to the Controlled Substances Act.

An existing list of oral pharmaceutical agents has been deleted and replaced with the above. Another modification to the Optometry Act involves penalties for lack of certification, using an agent for which the provider is not certified, and permitting an employee to use agents and allowing the use of pharmaceutical agents without the supervision required.

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## SB0376 CHIROPRACTIC MEDICINE & ADVANCE PRACTICE

McSorley, Cisco

Scheduled: in:

[3] Senate Public Affairs Committee/Senate Judiciary Committee-Senate Public Affairs Committee

**Chiropracto** New Mexico Chiropractor

**Position:** Support

**Priority:** High

*Hearing should be this week.*

### Synopsis:

**Senate Bill 376 (SB 376)** amends and enacts sections of the Chiropractic Physician Practice Act that provides for certification of advanced practice chiropractic physicians and to define "chiropractic medicine"

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## Analysis:

**Senate Bill 376 (SB 376)** establishes a two tiered chiropractic certification registry that is to be kept by the Chiropractic Board. The two levels are entitled level one and level two certified advanced practice chiropractic physicians.

Under definitions a new definition of "chiropractic assistant" means a person who practices under the on-premises supervision of a licensed chiropractic physician.

Prescribing under which the chiropractic physician has been educated and trained which includes a listing of natural agents to assist in the healing act includes such elements as food, water, heat, cold and many other elements as well as several new items in this bill to include light, oxygen and the selling of herbal medicines, nutritional medicines and homeopathic medicines.

SB 376 excludes the practice of operative surgery, the practice of acupuncture and the prescription, administration, injection or dispensing of dangerous drugs, unless by a level-one certified advanced practice chiropractic physician or a level-two certified advanced practice chiropractic physician.

The Chiropractic Board shall now be made up of six members of which four shall be continuously engaged in the practice of chiropractic medicine for five years, and at least one of the four will be a level one or level two chiropractic physician. The remaining two members shall be members of the public. Note: the addition of the level one or level two chiropractic physicians is new language related to board membership.

An advanced practice chiropractic registry is established as part of SB 376, instructing the board of chiropractic to establish by rule the advanced practice chiropractic registry which shall include each of the names of those chiropractic physicians who are certified as level-one advanced practice chiropractic physicians and level-two advanced practice chiropractic physicians.

Use of these titles cannot be used unless the chiropractic physician is listed on the registry noted above.

Level one certification by the Chiropractic Board is defined below.

The board shall certify as a level-one certified advanced practice chiropractic physician a chiropractic physician who applies for certification in accordance with board rules and who:

(1) on or after December 31, 2012, has successfully completed a postgraduate degree in a clinical specialty from an institution of higher education that is accredited by an agency accredited by the United States department of education; and

(2) holds a license in good standing to practice chiropractic medicine.

B. The board shall certify as a level-one certified advanced practice chiropractic physician a chiropractic physician who applies for certification in accordance with board rules and who:

(1) prior to December 31, 2012, successfully completed a minimum of ninety clinical and didactic-contact course hours in pharmacology, pharmacognosy, medication administration and toxicology certificated by an examination from an institution of higher education;

(2) holds a license in good standing to practice chiropractic medicine;

(3) has completed three years of postgraduate chiropractic medicine practice or equivalent clinical experience as established by the board; and

(4) has a certification in advanced clinical chiropractic medicine practice or its equivalent by a nationally recognized credentialing agency or institution and has demonstrated competency by examination.

C. A level-one certified advanced practice chiropractic physician shall complete annual continuing education requirements for level-one certified advanced chiropractic physicians as established by the board.

A level one chiropractic physician may not only prescribe or administer a range of substances already listed in the statute but may now inject such substances. New substances are now added to the existing list, in

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SB376 to include carbohydrates, sugars, alcohols and lidocaine. The Board of Chiropractic may now add new substances to the list noted above.

A level-two certified advanced practice chiropractic physician may prescribe, administer, inject and dispense dangerous drugs that are used in a standard primary care practice, with the exception of controlled substances enumerated under Schedule I and Schedule II of the Controlled Substances Act.

To qualify for level two appointment to the registry, the applicant must prove satisfactorily to the board that the applicant:

- (1) holds a current license to practice chiropractic medicine;
- (2) has successfully completed the level-one advanced practice chiropractic physician certification program approved by the board and currently holds certification by the board as a level-one certified advanced practice chiropractic physician;
- 3) has successfully completed an organized program of medically supervised clinical rotation from an institution of higher education or professional school that is accredited by an agency accredited by the United States Department of Education that consists of clinical and hands-on instruction of no fewer than six hundred fifty hours in at least the following core areas of instruction:
  - (a) clinical pharmacology;
  - (b) evidence-based clinical assessment;
  - (c) clinical pharmacotherapeutics;
  - (d) primary care case management; and
  - (e) patient safety and standards of primary care;
- (4) has professional liability insurance in place during the clinical education that is sufficient to satisfy board rules; and
- (5) has obtained a declaration from a supervising medical doctor, osteopathic physician, certified nurse practitioner or level-two certified advanced practice chiropractic physician that the applicant has successfully completed the prescribed clinical experience.

Other requirements are included in SB 376 but these are the major elements to meet the registry definitions for level one and level two certifications.