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FISCAL IMPACT REPORT

ORIGINAL DATE
LAST UPDATED 02/04/15 **HB** _____

SPONSOR McSorley

SHORT TITLE Chiropractic Medicine & Advance Practice **SB** 376

ANALYST Cerny

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		
	Indeterminate but Insignificant	Indeterminate but Insignificant	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
 Regulation and Licensing Division (RLD)
 Medical Board (MB)

SUMMARY

Synopsis of Bill

Senate Bill 376 amends the Chiropractic Physicians Practice Act (Section 61-4 to 61-4-17 NMSA 1978) in several ways:

First, it adds the word “medicine” to the titling of the practice thereby calling this practice “chiropractic medicine” as opposed to the current “chiropractic.”

SB 376 would also expand the scope of practice outside the realm of traditional chiropractic, now permitting chiropractors to diagnose and treat any condition “for which the chiropractic

physician has been educated and trained.” The current statute limits such practice “primarily by, but not limited to, adjustment and manipulation of the human structure.” SB 376 also adds “light” and “oxygen” to the list of natural agents that may be used for healing.

Excluded from oversight and approval by the MB and New Mexico Board of Pharmacy (NMBOP) are: surgery acupuncture and prescription or administrations, injection or dispensing of dangerous drugs unless by a level-one or level two certified advanced practice chiropractic physician.

SB 376 creates “level-one” and more advanced “level-two” certified advanced practice chiropractic physicians. It allows the new level-one and level-two advanced practitioners to prescribe, administer, inject and dispense dangerous drugs in accordance with board rules. For level-two practitioners this would include any dangerous drugs except Schedule I and II.

The MB is removed as an approval authority for the formulary. The NMBOP remains the only “collaborating” entity.

In addition to other educational requirements already in the law, level-one practitioners are required to complete 90 hours of clinical and didactic course hours in pharmacology and other subjects.

Level-one practitioners may attain level-two certification when the individual has completed a medically supervised clinical rotation of 650 hours in these areas: clinical pharmacology, evidence-based clinical assessment, clinical pharmacotherapeutics, primary care case management and patient safety and standards of primary care.

A level-two practitioner must also have insurance, a declaration form a health care provider (doctor, nurse practitioner, etc.), that the applicant has completed the prescribed clinical experience and several other criteria.

FISCAL IMPLICATIONS

SB 376 carries no appropriation.

The bill does not specify application fees for the advanced certifications. It is unknown how many of the currently 660 licensees will pursue the advanced certifications therefore the impact on revenue is indeterminate but likely to be insignificant.

SIGNIFICANT ISSUES

Chiropractic Physicians at both levels of advanced certification will be allowed to prescribe dangerous drugs. RLD analysis notes that if SB 376 is passed:

New Mexico will be the only State in the U.S. that allows Chiropractors to prescribe dangerous medications. The current formulary does not allow for the prescription of drugs other than allowed by NMSA 1978, Sections 61-4-9.2(A) and (B).

This bill would also require the promulgation of rules relating to the prescription, administration, injection and dispensing of substances to take place in collaboration with the NMBOP and no

longer with the MB.

MB analysis states:

The Medical Board has again reviewed the submission of the Board of Chiropractic Examiners of their proposal to grant Advanced Practice Chiropractors the privilege of prescribing everything in the Pharmacopoeia except Controlled drugs in Schedules 1 and 2 of the Controlled substances Act. Very little significant change has been introduced since 2008, except that this year, SB 376 proposes two new categories of Advanced Practice Chiropractors: Level-One (pages 12 to 15; and Level-Two Pages 24 to 27).

Level-One Advanced Practice Chiropractors are still only required to have a “minimum of ninety clinical and didactic-contact hours in pharmacology, pharmacognosy, medication administration and toxicology certificated by and examination from an institute of higher education” (page 13 lines 15-19). The Board will then be allowed to “promulgate with the board of pharmacy ... rules relating to the prescription, administration, injection, and dispensing of substances in accordance with the provisions of this subsection” (page 15, lines 3 to 11). The Medical Board still does not feel that this training is adequate.

Level-two Advanced Practice Chiropractors (a step up from level-one) will be allowed to “...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 [note: it is illegal to prescribe these drugs, heroin for example] and schedule II of the Controlled Substances Act” (page 24, lines 4 to 9).” What is new with Level-two is the requirement for successful completion “...of medically supervised clinical rotation from an institution of higher education or professional school ... accredited ... that consists of clinical and hands-on instruction of at least six-hundred fifty hours in at least the following core areas of instruction: clinical pharmacology; evidence-based clinical assessment; clinical pharmacotherapeutics; primary case management; and, patient safety and standards of primary care” (page 24, lines 24-25, and page 25, lines 4 to 11). There must also be a medical declaration of successful completion of the prescribed clinical experience (Page 25, lines 15-19).

Depending on how the Level-two 650 hours are distributed among the listed courses, this could be adequate training for Level-two practice, provided that such training is approved by the New Mexico Medical Board.

This is a major change from previous proposals for dangerous drug prescription by Advanced Practice Chiropractors.

As noted, the current statute requires the board to work in conjunction with the NMBOP as well as the MB. Specifically, the Board of Chiropractic Examiners (BOCE) is statutorily required to submit its formularies to the NMBOP and the MB for prior approval to the extent the formularies include dangerous drugs, as defined in the New Mexico Drug, Device and Cosmetic Act (Section 26-1 NMSA 1978), which include drugs for administration by injection.

This requirement was the subject of recent litigation. See *Int'l Chiropractors Ass'n v. N.M. Bd. of Chiropractic Exam'rs*, 2014-NMCA-046. The court found that where the BOCE approved an

advanced practice chiropractic formulary (in 2011) that included minerals and additional drugs to be administered by injection without obtaining the prior approval of the board of pharmacy and the medical board, the formulary violated the requirement of 61-4-9.2(B) NMSA 1978 that the formulary receive prior approval from the NMBOP and the MB.

RLD analysis also states: “There does not appear to be a clear distinction between the scope of practice of the level one advanced certification and the level two advanced certification.”

ADMINISTRATIVE IMPLICATIONS

The BOCE is currently licensing chiropractors and issuing advanced practice chiropractic physician certifications. This bill would create the new type of advanced certification of chiropractic physicians. RLD staff would need to process the new license type.

OTHER SUBSTANTIVE ISSUES

The American Chiropractic Association (ACA), based in Arlington, Va., is the largest professional association in the United States representing doctors of chiropractic, also referred to as Chiropractic Physicians.

This fact sheet http://www.acatoday.org/IssueBriefs/2015/Key_Facts_Jan2015.pdf prepared by the American Chiropractic Association does not make use of the term “Chiropractic Medicine.” That term is also not used on the organization’s website.

CAC/bb