

LFC Requester:

Ruby Ann Esquibel

AGENCY BILL ANALYSIS  
2014 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

And

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*

Original  Amendment   
Correction  Substitute

Date Jan. 30, 2014

Bill No: HB152-305 Jan 30

Sponsor: Rep. Terry H. McMillan

Reviewing Attorney General's Office

Short

Person Writing Sean Cunniff, AAG

Title: Medical Practice Act Sunset

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**SECTION II: FISCAL IMPACT \*\*\*\*FOR LFC OFFICIAL PURPOSES\*\*\*\***  
**AGO STAFF SHOULD LEAVE SHADED AREAS BLANK**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY14	FY15		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to

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

	<b>FY14</b>	<b>FY15</b>	<b>FY16</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

### **SECTION III: NARRATIVE**

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Opinion Letter. This is a staff analysis in response to the agency's, committee's or legislator's request.

### **BILL SUMMARY**

The enactment of HB 152 would result in the repeal of Section 61-6-35 of the Medical Practice Act, which is the Act's sunset provision. Under the existing provisions of Section 61-6-35, "[t]he New Mexico medical board is terminated on July 1, 2015 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Medical Practice Act until July 1, 2016. Effective July 1, 2016, the Medical Practice Act is repealed."

### **FISCAL IMPLICATIONS WITH ENACTING THIS BILL**

### **SIGNIFICANT LEGAL ISSUES**

By repealing Section 61-6-35, the Medical Practice Act would no longer be subject to the provisions of the Sunset Act, NMSA 1978, Sections 12-9-11 through -22. The effect of HB 152 would be to eliminate the automatic repeal of the Medical Practice Act set forth in 61-6-35. Thus, if HB 152 is enacted, the Medical Practice Act (and the related state medical board) would remain in force and existence unless the Legislature enacts legislation repealing the existence of that law.

In enacting the Sunset Act, the Legislature found that:

[S]tate government actions have produced a substantial increase in numbers of programs and a proliferation of rules and regulations and that the whole process has developed in a haphazard, piecemeal fashion resulting in overlapping and duplication without regulatory accountability or a system of checks and balances. The legislature further finds that by establishing a system for periodic review of certain separate administratively attached and adjunct agencies, it will be in a better position to evaluate the need for the continued existence of the regulatory agencies covered by the Sunset Act. NMSA 1978, § 12-9-12.

Among other things, the Sunset Act requires bodies subject to its provisions to periodically review their regulations and report any changes to the Legislature. NMSA 1978, §12-9-22. This provision, and any others contained in the Sunset Act, would apparently no longer govern the Medical Practice Act if HB 152 is enacted.

**PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL**

**ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL**

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS  
INTRODUCED THIS SESSION**

**TECHNICAL ISSUES OR DRAFTING ERROR**

**OTHER SUBSTANTIVE LEGAL ISSUES**

**ALTERNATIVES TO ENACTING THIS BILL**

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The Medical Practice Act will be subject to repeal as set forth in Section 61-6-35.

**AMENDMENTS NEEDED TO IMPROVE THIS BILL**