

LFC Requester:	Ruby Ann Esquibel
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**AGENCY BILL ANALYSIS
2015 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 January 15, 2015
Bill No: HB81-305

Sponsor: Christine Trujillo
Short Title: Patient Safe Staffing Act

Agency Code: Attorney General's Office
Person Writing: Caroline Manierre
Phone: 505-827-6097 **Email:** cmanierre@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

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

BILL SUMMARY

Synopsis:

House Bill 81 is an act that covers hospital nursing staff levels. The bill would require that all hospitals have a committee designed to oversee nurse staffing needs, create a nursing staffing plan, and post nursing staff levels within the hospital. The bill includes a provision permitting nurses to refuse to accept an assignment for which they do not have the requisite education or if the assignment is outside their scope of practice. House Bill 81 also includes a “whistleblowing” provision that protects employees who report noncompliance with the provisions in this bill. Finally, the bill contains an appropriations provision for the department of health related to the implementation of House Bill 81.

FISCAL IMPLICATIONS

N/A

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

Although there appear to be no significant issues with this bill, the bill does address actions that nurses are permitted to take during their practice. Specifically, the bill permits nurses to refuse an assignment that they lack the requisite education for or if an assignment is out of the nurse’s scope of practice. This creates a potential conflict with the New Mexico Board of Nursing and the Nurse Practice Act, NMSA 1978, § 61-3-1 et seq. By statute, the Board of Nursing “shall adopt and revise such rules and regulations as may be necessary to enable it to carry into effect the provisions of the Nursing Practice Act and to maintain high standards of practice” NMSA 1978, § 61-3-10(A). This includes the licensing and regulation of nurses. House Bill 81 appears to be in line with maintaining high standards and making sure nurses act within the scope of their practice, but there is a potential conflict between House Bill 81 and the statutory authority of the New Mexico Board of Nursing.

Section 10

Section 10 of House Bill 81 addresses whistleblowers. The state of New Mexico has a Whistleblower Protection Act, NMSA 1978, Section 10-16C-1 et seq., which covers all public

employers. The definition of “hospitals” in House Bill 81 covers both private and public hospitals. House Bill 81 does not appear to conflict with the Whistleblower Protection Act, but it is worth noting that public whistleblowers are already protected.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

Section 3 of House Bill 81 does not indicate who or how the seven nurses serving on the nursing staffing committee are selected, nor does it provide any criteria for the other four “qualified persons” serving on the committee. Section 7 of the Bill states that a nurse may refuse an assignment if the nurse lacks the requisite education, training and experience, or the assignment is outside the nurse’s scope of practice but does not indicate who or what entity makes the determination regarding these requisites or scope of practice

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

AMENDMENTS

N/A