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FISCAL IMPACT REPORT

SPONSOR: Miera DATE TYPED: 02/09/01 HB 177
 SHORT TITLE: Regulation of Methadone Clinics SB _____
 ANALYST: Dunbar

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		See Narrative			

SOURCES OF INFORMATION

Department of Health
 Health Policy Commission
 Public Defender

SUMMARY

Synopsis of Bill

HB177 creates a new statute giving the Department of Health the authority to regulate the establishment and continuance of methadone clinics in conformance with federal law. The bill defines “methadone clinic” as a “public or private facility that dispenses methadone for the detoxification treatment or maintenance treatment of narcotics addicts”.

Significant Issues

One of the primary concerns regarding methadone clinics in New Mexico has been that State regulations have never been promulgated even though the federal government required state approval of all methadone clinics, both public and private. Other issues include:

- C Inadequate needs assessments statewide.
- C Lack of public awareness of this issue.
- C Public antagonism towards methadone treatment and recipients of treatment.
- C DOH reliance on the cooperation of private methadone clinics.

Under this legislation DOH will be required to perform assessments of the need for clinics, develop standards required by federal law, and consider other factors necessary to ensure that the drug abuse treatment fulfills its mission.

DOH reports that on January 17, 2001, the Substance Abuse and Mental Health Services Administration (SAMHSA) of the U.S. Department of Health and Human Services published in the Federal Register revised final methadone regulations at 21 CFR Part 291 and 42 CFR Part 8. These regulations move federal oversight

of methadone clinics from the federal Food and Drug Administration to SAMHSA. Furthermore, DOH states that these regulations require that all methadone clinics be accredited by national accreditation bodies, using their clinical standards and that these new regulations will supercede state law, thereby obviating the need for HB 177.

DOH asserts that up until January 17, 2001 Federal law required that the State approve all applications for new methadone clinics. DOH writes that under current New Mexico law, the State has no authority to regulate methadone clinic and, therefore, has no basis to establish criteria for the approval of new methadone clinics.

The change in oversight from the Federal Food and Drug Administration (FDA) to SAMHSA moves the type of oversight from regulation to accreditation. Within three years of the date of implementation of the new rule (March 7, 2001), all methadone clinics will be accredited by national accreditation bodies using stringent clinical standards. DOH reports that accreditation will eliminate many of the problems currently observed, including overcrowding, inadequate counseling services, patients frequently changing clinics, and inadequate implementation of program policies. DOH maintains that by March, 2001, federal accreditation requirements administered by SAMHSA will supercede any state legislation.

FISCAL IMPLICATIONS

DOH claims that HB 177 would increase costs to DOH because implementation would require the addition of two FTEs to oversee the regulation of methadone clinics through development of regulations, site evaluations, imposition of sanctions and monitoring. The estimated cost for two FTEs is \$100,000, which includes salary, benefits, office space, etc.

ADMINISTRATIVE IMPLICATIONS

DOH believes that two FTE's will be required to perform additional work which includes promulgation of regulations, contract monitoring, technical assistance and evaluation.

OTHER SUBSTANTIVE ISSUES

The information below was provided by HPC:

- C Although methadone treatment and methadone clinics in the US have been utilized as a treatment for heroin addiction for over 30 years, controversy continues as to both the ethics and the efficacy of the treatment because it substitutes one drug for another to ease the addiction.
- C Methadone has proven to be effective in treating heroin addiction. However, based on the needs of the addict and their family, treatment can consist of long-term maintenance or short-term detoxification.
- C There have been abuses of methadone clinics in many areas of the US, which is one reason for the need to regulate such clinics. It is a type of clinic that, without regulation, can become a Medicaid or insurance mill", dispensing pills or liquid methadone juice cocktails to clients without any case management or counseling services.
- C In recent years, alternative treatments to heroin and narcotic addiction have stabilized the growth of methadone clinics; such treatments include acupuncture, biofeedback, meditation, and yoga.

No substantive issues are noted by the Public Defender except that many of their clients commit crimes because of an addiction to illegal substances. Public Defender points out that the establishment of methadone clinics would certainly be a helpful step in insuring client compliance with judicial orders to remain drug free and that this would aid in the rehabilitative process that is a condition precedent to the

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prevention of criminal recidivism

POSSIBLE QUESTIONS

Who will regulate methadone clinics in the interim in NM if it takes three years for national accreditation?

Will DOH have any responsibilities under the accreditation provisions?

How long will it take to grant accreditation to all of NM's methadone clinics?

Why would federal accreditation requirements administered by SAMHSA supercede any state legislation?
Would not the state regulations reflect similar accreditation requirements?

Will one of SAMHSA responsibilities include monitoring performance?

BD/lrs:AR