F I S C A L I M P A C T R E P O R T

SPONSOR Feldman **DATE TYPED** 2/12/05 **HB**

SHORT TITLE Create Pharmacy and Therapeutics Committee **SB** 588

ANALYST Collard

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	$50.0			Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SB 488, SJM 8

SOURCES OF INFORMATION
LFC Files

Responses Received From
Human Services Department (HSD)
New Mexico Medical Board
Regulation and Licensing Department Pharmacy Board (RLD)
Health Policy Commission (HPC)

SUMMARY

Synopsis of Bill

Senate Bill 588 creates a Pharmacy and Therapeutics (P&T) Committee appointed by the secretary of the Department of Health (DOH) comprised of eleven pharmacists, physicians and other licensed prescribers, with specified term limits. The committee is responsible for conducting drug utilization reviews; conducting pharmacoeconomic research and analyzing the clinical safety, efficacy and effectiveness of drugs within a therapeutic class of drugs; consulting with appropriate specialists for each therapeutic class of drugs; recommending continuing education activities and develop communication protocols; conducting other activities as needed to ensure optimal therapeutic and cost-effective drug utilization; making recommendations to affected state agencies on the development of a preferred drug list (PDL) required by Section 27-2-12.13 NMSA; and providing advice to HSD regarding the Medicaid PDL program. Additionally, the bill requires the above-mentioned state entities to utilize the findings of the P&T committee and prohibits HSD from using a contractor-developed PDL, in whole or in part. Finally, the bill ap-

propriates $50 thousand from the general fund for this purpose.

Significant Issues

HSD notes Section 3B, a new section of the public assistance act, restricts the ability of HSD to contract for administration of a PDL, even as an interim measure. HSD currently contracts for the administration of its PDL and estimates that this will save $3.5 million in state funds this year and at least $7 million in state funds next year. The bill thus prohibits HSD from acting in a fiscally responsible manner, and would necessitate additional reductions to benefits and/or reimbursement rates in order to make up for the $7 million.

HSD also notes the bill places restrictions on the Medicaid program within HSD, but places the administration of the committee in DOH.

The bill would prohibit not only the current contract that HSD is using in order to more effectively manage its pharmacy program, but would prohibit plans HSD has to expand this cost-effectiveness program in FY06. HSD indicates the department is currently in the process (through a Request for Proposals) of procuring services to manage and administer pharmacy benefits for the Medicaid fee-for-service population. This new contract would address issues such as drug over-utilization, inappropriate therapeutic duplication, possible under-utilization, and the assurance of medical necessity of drug items.

HSD notes some of the bill's provisions (perform drug utilization review, contract with evidence-based practice centers, etc.) could be eligible for Medicaid Federal Financial Participation (FFP). Since the bill only calls for a pharmacist or designee from HSD to be a member of the P&T Committee and is otherwise under DOH, such savings cannot be realized.

HSD is concerned about potential conflicts of interest of committee members related to pharmaceutical companies or participation in drug formulary decision-making processes with other entities and notes it is not addressed.

The Medical Board indicates a large amount of work will be required by the committee to conduct the required research into the safety, efficacy and effectiveness of drugs within a therapeutic class. It appears the work of this committee will be ongoing, but the administrative support and per diem in future years will not be funded, unless as part of an ongoing DOH budget request. It is anticipated that the work of the committee will result in cost savings related to drug purchasing.

PERFORMANCE IMPLICATIONS

HSD indicates the bill would remove the ability of HSD to contract the administration of the PDL as is being done currently in its initial phase. Because the administrative control of drug over-utilization, inappropriate therapeutic duplication, possible under-utilization, assurance of medical necessity of drug items, etc., the ability of HSD to act in a fiscally responsible manner would be significantly restricted.

FISCAL IMPLICATIONS

The appropriation of $50 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY06 shall revert to the general fund.

HSD notes the following implications:

	General Fund	Federal Matching Funds	Total
MEDICAID EXPENDITURES due to restriction on HSD to contract for management of a Preferred Drug List as an interim measure toward final PDL development	4,509.0	11,658.0	16,167.0
MEDICAID CONTRACTS due to restriction on HSD to contract for management of a Preferred Drug List as an interim measure toward final PDL development	150.0	150.0	300.0
HSD STAFF - Support positions to manage PDL recommendations and a medical consultant	90.0	270.0	360.0
TOTALS	**$4,749.0**	**$12,078.0**	**$16,827.0**

HSD notes no funding is appropriated for contracting with an evidence-based practice center or developing the information technology infrastructure needed to perform complex drug utilization data drill down, aggregation and analysis.

RELATIONSHIP

Senate Bill 588 relates to Senate Bill 488 in that SB 588 creates an 11-member committee duplicating the 9 member board created in SB 488. Both the committee and board are charged with the same duties and membership.

Additionally, other cost-management strategies are the subject of Senate Joint Memorial 8, which asks the Aging and Long-Term Services Department, the Office of the Attorney General and the Board of Pharmacy to create a task force to study the feasibility, legality and safety of importing prescription drugs from Canada and Mexico, taking into account the studies conducted by other states.

TECHNICAL ISSUES

HSD notes cost-effectiveness is included in the P&T Committees "other activities" in Section 2A(5). Cost-effectiveness is a cornerstone of pharmacoeconomic research, but section 2A(2) only calls for research and analysis of clinical safety, efficacy and effectiveness.

HPC notes, while the proposed board is charged to "recommend therapeutic classes of drugs… to be included in the preferred drug list" and to "identify appropriate exclusions from the preferred drug list", no criteria or performance measures are specified. Additionally, "therapeutic class", "appropriate exclusions", and "medical appropriateness" are not defined in the bill.

OTHER SUBSTANTIVE ISSUES

The Medical Board notes this legislation appears to be in response to requirements in Section 27-2-12.13 NMSA for a "preferred drug list" to be used by the Medicaid program and all state health care programs purchasing prescription drugs. This committee will serve as the fact-finding and decision-making entity to recommend the preferred drug list.

HPC indicates there is no requirement that the P&T Committee seek input from enrollees or vulnerable populations such as elderly or disabled people and no requirement of any mechanism to ensure public participation or advice.

HPC also notes the bill does not appear to be inconsistent with the federal requirement for a single administrative entity for state Medicaid programs.

It should be noted the Department of Health deferred to HSD for this analysis.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

RLD indicates pharmacists in New Mexico still would not be able to perform therapeutical/pharmacological drug substitutions. Therapeutic equivalent substitutions would still occur based on the Federal Food and Drug Administration's approved therapeutic equivalents.

The Medical Board notes there would be a potential lack of a broad-based group of professionals researching and recommending drugs for use by individuals in state-funded programs.

KBC/sb