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FISCAL IMPACT REPORT

ORIGINAL DATE 02/18/11

SPONSOR HCPAC LAST UPDATED 02/27/11 HB CS/127/aHJC

SHORT TITLE Chiropractor Prescriptions & Procedures SB _____

ANALYST Wilson

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Response Received From
Department of Health (DOH)
Medical Board (NMMB)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment to House Bill 127 provide for a certified advanced practice chiropractic physician to prescribe and administer drugs that “are used in primary care practice” in lieu of “dangerous drugs”.

In addition, the amendment states that chiropractic medicine shall exclude the practice of acupuncture.

Synopsis of Original Bill

The House Consumer and Public Affairs Committee substitute for House Bill 127 cleans up and amends the Chiropractic Physicians Practice Act NMSA 1978, §61-4-1 through 17 as follows:

- Clarifies chiropractic as a therapeutic discipline within general health care fields of medicine instead of a modality of limited scope and use;
- Mandates that at least one member of the chiropractic licensing board be a certified advanced practice chiropractic physician;

- Removes the liability and responsibility of formulary approval from the Medical Board (NMMB) and the Pharmacy Board (NMPOB) leaving the Board of Chiropractic Examiners Board (NMBCE) to regulate the chiropractic profession; and
- Mandates strict educational requirements of advanced practice chiropractors for the implementation of an expanded formulary.

FISCAL IMPLICATIONS

No fiscal implications.

SIGNIFICANT ISSUES

DOH notes that there are some important issues in this bill. One is the shift of approval authority of the drug formulary from the NMMB and NMBOP to the NMBCE. In February 2010, the NMMB conducted a thorough review of the proposed formulary and educational criteria from the NMBCE. They concluded that they could not approve the proposed drugs, the manner of administration or their safety and effectiveness.

Currently, there is enormous concern in the medical, law enforcement, regulatory and public health arenas about the epidemic of adverse outcomes related to prescription drugs, especially the potent class of opioids. Broadly, the increase in negative outcomes nationally is occurring in tangent with the increased availability and accessibility of these drugs. Physicians are responsible to demonstrate comprehensive knowledge and skill in prescribing controlled substances and therefore, have considerable potential to improve outcomes related to prescription drug use. Even now, there is a major effort at the local and federal level to promote training among physicians in the safe and effective treatment of patients using controlled substances to combat rising rates of abuse, nonmedical use, drug seeking and diversion of these drugs.

Some of the data indicating the reason for concern over the increasing availability of controlled substances include:

The New Mexico Prescription Drug Monitoring Program revealed that 44% of New Mexicans aged 10 and older were prescribed a controlled substance during a recent 27 month time period underscoring the prevalence of these drugs.

There has been a slight increase in the abuse of prescription painkillers among New Mexico youth, from 12% in 2007 to 14% in 2009, the second most commonly abused drug in 2009

Adult prevalence of prescription painkiller abuse was estimated at 4.7% in the U.S. and 5.1% in New Mexico. This suggests that roughly 80,000 New Mexican adults reported nonmedical use of prescription opioids.

Lastly, the overdose death rate from sedatives and tranquilizers increased 30% from 2008 to 2009 and the number of overdose deaths caused by alprazolam, the fourth leading cause of drug overdose death in 2009, increased from less than 10 prior to 2004 to 56 in 2009.

Oklahoma is the only other state that allows chiropractic physicians to prescribe or administer dangerous drugs. Oklahoma limits chiropractic physicians, with special certification, to prescribing vitamins, minerals or nutritional supplements.

The NMMB provided the following:

The NMMB has previously stated that it does not have the know-ledge or experience to evaluate or approve chiropractic schools or post-graduate training. Once again, the requirement is included for NMMB “approval” of the “institution of higher learning” that provides training to the advanced practice chiropractors in the required knowledge of the science and the hands-on methods of administration of dangerous drugs and controlled substances. This role of approving chiropractic education is not within the jurisdiction or purview of the NMMB.

Throughout HB-127, the terms “chiropractor” and “chiropractic” have been amended to “chiropractic physician” and “chiropractic medicine”. By universally accepted definition, “physician” specifically means a MD for a medical doctor or a D.O. for a doctor of osteopathy. The NMMB takes the position that it is inappropriate and misleading to the public to use the term chiropractic physician when “physician” is specifically defined as an M.D or a D.O. Similarly the diagnostic and therapeutic practice is that of chiropractic and the term chiropractic medicine is also misleading.

The NMMB continues to question the wisdom, and the effect on the safety of the public, of the minimum education and training hours specified: a minimum of 90 hours of education required for prescription of dangerous drugs in order to be competent in the prescription of and treatment with dangerous drugs which require a prescription, by definition. (Note: 450 hours minimum are required for Prescribing Psychologists to have prescriptive authority over only one class of dangerous drugs: the psychotropics).

HB 127 removes the NMMB from having authority to approve a drug formulary proposed by the NMBCE, and amended language grants total authority to the NMBCE to approve the use of dangerous drugs, by rule. In February 2010, after a thorough review of the proposed chiropractic formulary and educational criteria, the NMMB adopted the position that they could not approve either the proposed drugs, or the proposed routes and dosages of administration or their safety and effectiveness. MDs and DOs would never use many of the proposed substances, especially in the manner which the chiropractors proposed for their use. The NMMB determined that approval of drugs is the purview of the Federal Drug Administration and does not want the public to be misled that drugs approved by the NMBCE have also been approved by the NMMB for patient use. The NMMB also did not approve administration of dangerous drugs or controlled substances by the Advanced Practice Chiropractors based on the lack of sufficient, appropriate education, specific clinical training, and hands-on experience, and in fact, may explore rescinding the NMMB’s approval of the educational institutions since the initial approval was based on training for topical, sublingual and oral administration of drugs only.

ADMINISTRATIVE IMPLICATIONS

The boards affected by this bill can handle the provisions of this bill with existing staff as part of ongoing responsibilities.

ALTERNATIVES

The NMMB makes the following recommendation:

Page 15, line 12, substitute “medical or osteopathic physician” for “medical doctor”

Page 14, lines 19-24, substitute “medical or osteopathic physician” for “medical doctor”

Page 16, line 4, substitute “medical or osteopathic physician” for “medical doctor”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The NMMB states the current restrictions on the prescription of dangerous drugs and controlled substances will remain in effect, thus continuing to protect the public. Similarly another part of that protection of the public derives from restriction against invasive procedures and surgery, both of which will be allowed by the NMBCE should this bill be passed.

DW/mew:svb:bym