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

SPONSOR Griego, E. **ORIGINAL DATE** 03/02/11 **LAST UPDATED** **HB**

SHORT TITLE Prescription Drug Monitoring Program **SB** 569

ANALYST Hanika-Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	**FY12**		
	$5,000.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Department of Health (DOH)
Human Services Department (HSD)
Public Regulation Commission (PRC)
Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

Senate Bill 569 (SB 569) enacts various new sections of related laws to enable the Board of Pharmacy (Board) to establish and maintain a prescription drug monitoring program (PDMP) for the prescribing and dispensing of medication-assistant treatment (MAT) by certified licensed providers for patients with opiate dependence. The bill also appropriates $5,000,000 (five million dollars) from the General Fund to HSD to operate a voucher system for those uninsured individuals in need of MAT for opioid dependence.

Sections one and two enact several subsections of the New Mexico Drug, Device and Cosmetic Act (Act) to read:

Subsection (A): the Board shall establish a PDMP for Schedule II or III opioids to help avoid their illegal use. Information including a patient utilization report for these drugs will be accessible by practitioners, dispensers, and patients.

Subsection (B): prescribers will access the PDMP utilization report of a patient's previous 12 months controlled substance use to establish medical necessity prior to prescribing.

Subsection (C): the Board will require prescribers of controlled substances to register in the PDMP and monitor their patients' controlled substance use.

Subsection (D): an annual waiver will be available for prescribers unable to access PDMP reports electronically.

Subsection (E): participating prescribers, dispensers, and the Board will not be subject to civil liability, administrative action or equitable relief for acts or omissions related to furnishing or not furnishing correct or incorrect information; receiving; using or not using; relying upon or not relying upon information available from PDMP unless a court finds negligence; malice; or criminal intent.

(F): provides for definitions including *dispenser* to mean a person other than a pharmacy authorized to dispense or distribute a controlled substance, and *schedule II or III controlled substances* to mean a substance listed in the Controlled Substances Act.

Section 2 will require group health plans pursuant to the Act to eliminate prior authorization requirements for MAT for opioid dependence using buprenorphine.

Section 3 enacts a new section of the Rural Primary Health Care Act to require State-funded health facilities with at least two full-time-equivalent physicians to have at least one physician certified and available to provide MAT for opioid dependence using buprenorphine.

Section 4 enacts a new section of the Public Assistance Act to require HSD to establish a voucher program for uninsured individuals with incomes below 200% of the federal poverty level to receive free buprenorphine for up to six months with a daily dose not to exceed 16 milligrams when prescribed by a certified physician.

Sections 5, 6 and 8 enact new sections of the Insurance Code that would require individual, group, and non-profit health care plans to eliminate prior authorization requirements for MAT for opioid dependence using buprenorphine.

Section 7 enacts a new section of the Health Maintenance Organization Law to require certain carriers of health care plans to eliminate prior authorization requirements for MAT for opioid dependence using buprenorphine.

FISCAL IMPLICATIONS

The appropriation of $5,000,000 (five million) contained in this bill is a recurring expense to the General Fund. Any unexpended or unencumbered balance remaining at the end of FY12 shall revert to the General Fund. This money will not be matched by federal funding because it is directed to fund the program for non-Medicaid eligible recipients.

The bill will require the Board to create a PDMP to track prescribed and dispensed Schedule II and III opiates, but does not provide for continuing appropriations to support these additional duties.

HSD asserts that the cost of administering the voucher program described in SB 569 can be estimated by comparison with a similar voucher based program, Access to Recovery, (ATR) funded by the HSD Behavioral Health Service Division and managed through the Statewide Entity.

ATR is a federally financed substance abuse treatment grant funded program which utilizes a voucher-based reimbursement system, supporting clinical and recovery support services for eligible individuals through a network of secular and faith-based providers. Individuals with substance abuse disorders may go to a Central Intake site and receive a comprehensive assessment. Based on this assessment, an individual receives a voucher for up to $3,000 which they use to purchase clinical treatment services and recovery support services from an ATR-credentialed network for up to three months. The program is funded at about $3.2 million per year and serves about 2,900 persons annually. Because of limited funding the program currently is only offered in Otero, Dona Ana, Bernalillo, Curry, McKinley and Santa Fe counties.

HSD provided the following estimate of cost to serve an additional 3,750 patients annually.

Category	**Cost**
▪ Admin: fiscal agent, credentialing provider network, through the SE	$500,000
▪ Central Intake evaluation/coordination of services at $100 per month for 3,750 persons	$375,000
▪ Physician services @ $200 per month per person for 3,750 persons	$750,000
▪ Cost of medication per month @ $400 per person for 3,750 persons	$1,500,000
▪ Treatment and Recovery Services @ $500 per person per month for 3,750 persons	$1,875,000
Total	**$5,000,000**

MAT may reduce the incidence of HIV and Hepatitis B and C viruses, as non-treated drug users often share contaminated needles.

SIGNIFICANT ISSUES

SB 569 creates a PDMP through the Act that monitors prescribing and dispensing of Schedule II and III opioids. This type of treatment is appropriate for people who are addicted to Heroin or other opiates or those addicted to prescription medications. The bill will require a provider to obtain a patient utilization report regarding the patient's history for the previous 12 months before prescribing the opioid if the provider has any reason to believe that the patient is seeking the drug for any reason other than treatment for an existing condition. The Board will require an applicant for a license to prescribe controlled substances to register in the PDMP and agree to use the program to track patients' controlled substance use.

SB 569 also proposes that HSD implement a voucher program for free buprenorphine treatment to uninsured persons living at <200% of the Federal Poverty Level. This treatment will be administered by a certified physician for up to 6 months at no cost to the patient. HSD will be appropriated $5 million dollars to implement this program in FY12.

SB 569 seeks to expand access to care for opiate dependent persons by requiring certain state-funded health facilities to have at least one physician available for providing medication assisted treatment and to further remove barriers to treatment by prohibiting prior authorization requirements by health insurers.

PERFORMANCE IMPLICATIONS

DOH notes that since July 2005, New Mexico has an operational federally-funded PDMP, enacted through the Controlled Substances Act. This program tracks controlled substances Schedules II-IV dispensed in New Mexico.

ADMINISTRATIVE IMPLICATIONS

RLD notes that any monitoring or sharing of information between providers and the Board may constitute a violation of HIPAA unless the patient provides a release or is not specifically identified.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Related to:
SB 232, Buprenorphine Treatment for Opioid Addiction
SB 544, Opioid Treatment Income Tax Credit

ALTERNATIVES

The Board could impose a fee on certified providers to register in the PDMP to help support its operational costs.

OTHER SUBSTANTIVE ISSUES

DOH states that New Mexico has a need for opiate replacement therapy due to high rates of heroin addiction and in recent years, increasing rates of prescription opioid addiction. In 2009, heroin accounted for 41% of unintentional drug overdose deaths; prescription opioids accounted for 45%. The number of inpatient hospitalization discharges with a primary diagnosis of heroin and synthetic opiates increased 82% from the first half of 2008 to the second half of 2009. A national survey estimated that roughly 80,000 New Mexican adults reported nonmedical use of prescription opioids, while youth survey indicated that 14% of high school aged youth abused prescription painkillers in the past month.

Buprenorphine has a lower overdose risk than methadone and can be prescribed in an office-based setting. It is also approved as a treatment for opiate-dependent youth and adults including pregnant women who are incarcerated or recently released from prison. The number of physicians in New Mexico certified to prescribe buprenorphine is currently at 139.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Continued limited access to buprenorphine treatment for certain uninsured persons.

AHO/svb