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FISCAL IMPACT REPORT

ORIGINAL DATE 2/13/19
LAST UPDATED 2/28/19

SPONSOR SPAC **HB** _____
SHORT TITLE 3-Year Medical Marijuana Certification **SB** 404/SPACS
ANALYST Chenier

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
	Unknown		Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Unknown			Recurring	Medical Cannabis

(Parenthesis () Indicate Expenditure Decreases)

Senate Bill 404 makes a similar change as Senate Bill 406.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)

Department of Veterans' Services (DVS)

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

The Senate Public Affairs Committee Substitute for Senate Bill 404 changes the expiration date of medical cannabis registry identification cards from one year to three years after the date of issuance with the exception that if a card is issued to a person under 18 years of age, the card will expire after one year. The bill would require qualified patients to visit their practitioner each year. Subsequent to each annual visit, practitioners would be required to submit to DOH, by electronic means, a notice that the patient still qualifies for the medical cannabis program.

FISCAL IMPLICATIONS

This bill will likely reduce DOH operating costs in the Medical Cannabis Program; however, DOH did not provide an estimate. Medical Cannabis revenues that are unspent automatically revert to the general fund likely increasing revenue to the general fund.

DOH said the bill would require the department establish administrative processes that enable the production of two different patient identification cards and issue the correct card depending on the qualifying participant's age and qualifying condition. The bill would also require that the health care practitioner of a patient currently qualified for three-year enrollment in the Medical Cannabis Program annually transmit directly to the Department of Health a notice that they have examined the patient and that the patient still qualifies as a participant in the Medical Cannabis Program. This would also include changes to the current database to ensure proper tracking of program participation.

SIGNIFICANT ISSUES

AOC said that under the SPAC Substitute, a patient might be in possession of a registry identification card, but not have undertaken the required annual practitioner visit nor provided the required annual notice to the department from the practitioner, and would be subject to arrest, prosecution or penalty for the possession of or the medical use of cannabis. Section 26-2B-5(B) NMSA 1978 provides a petty misdemeanor penalty for a person who makes a fraudulent representation to a law enforcement officer about the person's participation in a medical use of cannabis program to avoid arrest or prosecution for a cannabis-related offense. If a person holding a three-year registry card, who has not made the annual visit to the patient's practitioner, and whose practitioner has not provided the annual notice to the department, makes representations of participation in the program, the person will be guilty of a petty misdemeanor.

DOH provided the following:

The Medical Cannabis Program is distinguished from ordinary prescription medicine in several respects. In prescription medicine, substances are tested and approved through the U.S. Food and Drug Administration after rigorous scientific review. Prescription medications typically consist of specific chemical substances, that have been isolated, and whose side-effects and medical counter-indications have been clearly identified. In contrast, medical cannabis is not a prescription medicine. In New Mexico, the use of medical cannabis requires an annual written certification from a medical practitioner, who is licensed to prescribe controlled substances, who attests that in the practitioner's professional opinion the patient has a debilitating medical condition and the practitioner believes that the potential health benefits of the medical use of cannabis would likely outweigh the health risks for the patient. There is already significantly less oversight of patients' consumption of medical cannabis than exists in the field of prescriptive medicine, in which patients commonly contact their medical practitioner every 90 days or less to have their prescription refilled. Extending the enrollment and certification periods from the current one-year standard to three years, would result in even less medical oversight of patients' use of cannabis than exists currently.

The bill would ease the burden on the number of applications processed annually. This would also benefit patients who must pay for medical provider certifications annually.

The MCP regularly sees patients enrolled have a lapse in their cards. This is primarily due to many patients submitting their renewal after their card expires or within a week of when they expire. Many of the people enrolled in the MCP are dealing with multiple issues and they may get confused by the fact that they have a card that states it is valid for three years, but they then potentially have their card suspended for failure to provide documentation annually, as would be required under SB404.

The MCP would have a concern about a three-year enrollment based on accepted medical practices. When ingested, inhaled or applied locally or topically, medical cannabis is acting upon a vast system of endocannabinoid receptors located throughout the body. This has the potential for an array of both beneficial therapeutic effects and adverse reactions that may change over time due to the dynamic nature of human physiology. It is both best practice, and in the patient's best interest, for physicians and other medical providers to have an opportunity to take an interval history from the patient and perform a physical exam to guide their assessment of the patient's ongoing medical conditions, to review symptom management, and to guide their ongoing medical therapy.

DVS stated that many veterans in our state are provided close to 100 percent of their healthcare through the federal Veterans' Affairs (VA) healthcare system. VA policies do not allow VA providers to recommend or assist veterans in obtaining any cannabis products. The veteran would have to go outside of the VA healthcare system to receive their initial registration and process renewal applications which could cause a financial burden.

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