

LFC Requester:

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AGENCY BILL ANALYSIS
2024 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

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SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original Amendment
Correction Substitute

Date January 19, 2024

Bill No: HB0033

Sponsor: Pamelya Herndon Agency Name and Code Number: Aging and Long – Term Services Department – 62400

PRESCRIPTION DRUG
PRICE TRANSPARENCY
ACT AND
APPROPRIATION

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
NFI	NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Creates the Prescription Drug Price Transparency Act in the Insurance Code to increase transparency across the prescription drug supply chain. Requires annual reports to the Superintendent of Insurance (SOI) from drug manufacturers, pharmacy services administrative organizations, authorized health insurers, and pharmacy benefits managers with specific data about drug prices and sales. Subsequently, the SOI must report annually to legislative committees, an annual public meeting, and online *via* the SOI website. Additionally, this bill includes language regarding enforcement and penalties. Finally, HB33 appropriates \$100,000 (GF, reverting) for FY2025 and FY2026 to the SOI to implement the act.

FISCAL IMPLICATIONS

HB 33 impacts the service population of the Aging and Long-Term Services Department (ALTSD), however, there are no fiscal implications for ALTSD. Benefits directly impact prescribers and prescription drug recipients, but not the department itself.

SIGNIFICANT ISSUES

Older adults and adults with disabilities are the largest consumers of prescription drugs. Among U.S. adults aged 40–79 years, 69% used one or more prescription drugs in the past 30 days and 22% used five or more.¹ Therefore, older adults and adults with disabilities are disproportionately and negatively affected by cloaked prescription drug prices.

Among those currently taking prescription drugs, 23% of seniors report it is difficult to afford their prescription drugs.² Greater out-of-pocket costs for consumers are associated with decreased adherence to medication, ultimately contributing to increased, downstream healthcare costs. In 2022, approximately 20% of those 65 years and older practiced cost-related medication nonadherence, meaning they intentionally missed doses, decided not to fill or delayed filling a

¹Hales CM, Servais J, Martin CB, Kohen D. Prescription drug use among adults aged 40–79 in the United States and Canada. NCHS Data Brief, no 347. Hyattsville, MD: National Center for Health Statistics. 2019.

²Kaiser Family Foundation Health Tracking Poll, 2019 <https://www.kff.org/health-costs/poll-finding/kff-health-tracking-poll-february-2019-prescription-drugs/>

prescription, took less medication, or used someone else's medication(s).³ ALTSD's Prescription Drug Assistance Program is responsible for researching financial assistance and relief for uninsured or underinsured older adults and people with disabilities. Participants of this program often find themselves in a crisis due to a new prescription they didn't realize was prohibitively expensive until they attempt to fill the prescription at the pharmacy. A transparent pricing requirement and report would allow the patient to discuss alternatives for the costly prescriptions while they are meeting with their physician.

Recent research demonstrates that medication cost transparency alerts lead to more cost-conscious prescribing by clinicians.⁴ However, there is a lack of evidence regarding prescription drug price transparency and its *direct* effect on medication affordability and adherence by consumers.

During 2023, both the Drug-price Transparency for Consumers Act of 2023 and the Strengthening Pharmacy Access for Seniors Act were introduced in Congress. The purpose of these federal bills is to amend the Social Security Act to require direct-to-consumer advertisements for prescription drugs include disclosures of pricing data. However, as of this date, these bills have stalled, prompting U.S. states to initiate their own state legislation.

California, Connecticut, Texas, New Jersey, and Vermont are among 19 states that have enacted prescription drug transparency laws. In the subsequent five years since their transparency law was enacted, Vermont reported an 80% decline in the number of price increases of 15% or greater for its taxpayer-funded Medicaid program. And, as of January 12, 2024, 19 bills across 11 U.S. states are under consideration for drug price transparency laws creating new requirements for drug manufacturers.⁵

Aging and disabled New Mexicans face disproportionately greater costs of prescription medications. This bill will hold drug manufacturers accountable and empower consumers to make informed decisions when faced with ubiquitous drug advertisements. Further, greater transparency regarding costs of prescription drugs could initiate competition among pharmaceutical brands, in turn, lowering drug prices thereby helping taxpayers and consumers.

PERFORMANCE IMPLICATIONS

None currently identified.

ADMINISTRATIVE IMPLICATIONS

Should HB 33 be enacted, ALTSD may pursue outreach to inform its consumers of the benefits provided under HB 33. The administrative impact should be minimal.

³Dusetzina SB, Besaw RJ, Whitmore CC, *et al.* 2023. Cost-Related Medication Nonadherence and Desire for Medication Cost Information Among Adults Aged 65 Years and Older in the US in 2022. *JAMA Netw Open.* 6(5):e2314211. doi:10.1001/jamanetworkopen.2023.14211

⁴Monsen CB, Liao JM, Gaster B, Flynn KJ, Payne TH. The effect of medication cost transparency alerts on prescriber behavior. *J Am Med Inform Assoc.* 2019 Oct 1;26(10):920-927. doi: 10.1093/jamia/ocz025. PMID: 31321427; PMCID: PMC7647180.

⁵National Academy for State Health Policy (<https://nashp.org/state-tracker/2024-state-legislation-to-lower-pharmaceutical-costs/>)

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None currently identified.

TECHNICAL ISSUES

None currently identified.

OTHER SUBSTANTIVE ISSUES

There exists a lack of evidence regarding prescription drug price transparency and its direct effect on medication affordability and adherence by consumers.

While it would be helpful for prescribers and consumers to be aware of recent, historic price increases of prescription drugs, it would be advantageous to consumers to receive advance notice of proposed prescription drug price hikes.

ALTERNATIVES

None currently identified.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

By not enacting this bill, the OSI will not have the authority to collect and analyze prescription drug costs or take enforcement action against its regulated entities, specifically, the drug manufacturers. Further, consumers will not have access to valuable information regarding prescription drug cost.

AMENDMENTS

None currently identified.