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FISCAL IMPACT REPORT

SPONSOR Sapien **ORIGINAL DATE** 01/26/11
LAST UPDATED _____ **HB** _____

SHORT TITLE Electronic Prior Prescription Authorization **SB** 117

ANALYST Hanika-Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$5.0 - \$50.0		\$5.0 - \$50.0	Nonrecurring	Pharmacy Fund/General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the Attorney General (AGO)
NM Board of Pharmacy (Board)

SUMMARY

Synopsis of Bill

SB 117 enacts the “electronic prior authorization of prescriptions act” (act) which will require the (Board), working with the insurance division of the Public Regulation Commission (PRC), to develop standards by January 1, 2015 for the secure electronic exchange of e-prior authorizations (e-PA) for drugs and devices between licensed healthcare providers and group purchasers.

Nothing in the act shall preclude the option for paper e-prior authorization forms.

FISCAL IMPLICATIONS

The total cost associated with the development of e-PA standards is unknown but could include the need to consult with IT experts. The Board states that two of its members will be required to consult with the Insurance Division of the PRC in the development of the e-PA standards. Each Board member will be eligible to collect per-diem and mileage for their participation in the process.

For retail pharmacies, the primary cost of e-prescribing is usually a per-transaction fee of about 25 cents per new prescription or renewal request, paid to a processor or software provider. The software required by retailers to process e-prescriptions is usually part of their pharmacy management system.

SIGNIFICANT ISSUES

E-PA is defined as “...a requirement that a prescriber obtain approval via electronic media from a health plan to prescribe a specific medication prior to dispensing.”

The bill describes the various requirements for e-PA requests. The bill will allow licensed healthcare providers to electronically submit prior authorizations in lieu of a paper form. Facsimiles are not considered electronic submissions. Included are requirements for a grievance review process between parties.

Group purchasers include Pharmacy Benefit Managers (PBMs). A PBM is a third party administrator of prescription drug programs. They are primarily responsible for processing and paying prescription drug claims. They also are responsible for developing and maintaining the formulary. If a formulary drug requires a prior authorization, then the PBM denies until submitted. Treatment is often delayed.

PERFORMANCE IMPLICATIONS

There is no electronic prior authorization standard available in the U.S. at this time.

The nation appears to be moving towards national standards for electronic health records and health information exchanges.

ADMINISTRATIVE IMPLICATIONS

The bill does not identify which state agency is responsible for the implementation, oversight and enforcement of a system relating to e-prior authorization transactions.

The AGO notes that it will most likely see an increase in workload as it relates to legal advice and legal representation given to the Board as standards are enacted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 16 enacts the “pharmacy benefits manager regulation act” and creates authority for the licensure and regulation of PBMs through the insurance division of PRC.

TECHNICAL ISSUES

SB 117 lacks definitions of key terms: “standards,” “medications,” “drug or device,” “therapeutic class,” “health plan,” “group purchasers, and “standards”.

The pharmacists/pharmacies possible roles in the e-PA process are not included within the provisions of this Bill.

OTHER SUBSTANTIVE ISSUES

According to the National Progress Report on E-Prescribing, 97% of chain pharmacies were accepting electronically generated prescriptions (2007 data). About 70% of all U.S. pharmacies can take electronic prescriptions. Mail-order medication services are also accepting e-

prescriptions. In sharp contrast, just 6% of office-based physicians in the U.S. were e-prescribing medication. As a result, only 2% of prescription transactions - about 35 million - were transmitted electronically.

E-prescribing saves pharmacists time - they don't have to decipher or fact-check illegible paper prescriptions - and helps ensure that medications are accurately dispensed. The system also provides doctors access to a patient's medication history and insurance coverage, helping to prevent harmful drug interactions and reduce costs. For consumers, e-prescribing conveniently transmits prescriptions to their local pharmacy before they leave the doctor's office.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Prior authorizations will continue to be a non-standardized manual process.

AMENDMENTS

The provisions in SB 117 could be incorporated into the Pharmacy Act (NMSA 1978, §61-11-1 et. seq.) to allow the Board to administer and enforce the provisions of the act, using its fund. The bill could also include provisions for the Board to adopt regulations to clarify and implement the act.

AHO/mew