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

SPONSOR HHHC **ORIGINAL DATE** 2/21/19 **LAST UPDATED** 3/3/19 **HB** 357/HHHCS

SHORT TITLE Provision of Take-Home Methadone **SB**

ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minimal	Minimal	Minimal	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From the Following, Regarding the Original Bill:
Regulation and Licensing Department (RLD)
Department of Health (DOH)
New Mexico Medical Board (MB)
New Mexico Board of Nursing (BN)
Human Services Department (HSD)

SUMMARY

Synopsis of Bill

The House Health and Human Services Committee Substitute for House Bill 357 would enact a new section to the Pharmacy Act (Section 61-11 NMSA 1978) to allow a licensed regular nurse or licensed practical nurse working in an opioid addiction treatment program to supply up to a 27-day supply of methadone to be taken home by a client of that treatment program, as long as the container was properly labeled.

FISCAL IMPLICATIONS

There is no appropriation. Regulations would have to be written initially to allow this practice, which would take a small amount of personnel time.

SIGNIFICANT ISSUES

The country as a whole, and New Mexico in particular, are experiencing an epidemic of opiate drug abuse (oxycodone and similar oral drugs, heroin, fentanyl and similar drugs). One of the most effective ways of treating addiction to these drugs is through the use of either methadone or buprenorphine (also called Suboxone), which must be taken daily or multiple times per day and act on the same brain receptors as the opiates of abuse.

Many such programs require that the client come in to receive his/her methadone or buprenorphine doses. Many such programs operate five days a week and then have to deal with getting clients their drug doses on weekends. Providing the client a one- or two-days' supply for those days is an often-exercised option. This bill would facilitate such a practice by making professionals other than pharmacists able to hand out the medication already prescribed, as this bill contemplates; established patients may be able to manage having less supervision of taken-home medication.

BN indicates that federal law, 24 CFR 8.12, regarding "Federal Opioid Treatment Standards" "allows for take home doses of the opiate agonist [such as methadone or buprenorphine] if the patient has met certain conditions in the program."

Having parents treated for opiate addiction is obviously in children's best interest as well as being in the best interest of the parent. However, there is concern about accidental ingestion of the treatment agents buprenorphine and methadone. Up-to-date, a medical service used by many physicians, makes the following points regarding the dangers of a child coming across his/her parent's medication: "In children under age six years, opioid intoxication typically occurs as an exploratory ingestion of prescription opioids that were available within their environment. Some of these medications, such as methadone and buprenorphine pills or fentanyl patches, may cause life-threatening respiratory depression or death despite ingestion of only one or two pills or exposure to one patch. For example, in the United States, oral prescription opioids accounted for the greatest number of emergency hospitalizations for poisoning in children younger than six years of age from 2007 to 2011, and buprenorphine was most commonly ingested. Furthermore, buprenorphine ingestion by children younger than six years of age is associated with high rates of hospital admissions (up to 45 percent) and serious medical outcomes (over 20 percent of exposures). If available, unit dose packaging of buprenorphine may decrease hospitalization. Children are also exposed to opioids maliciously by their caretakers or inadvertently in households where illegal drugs are accessible, often with fatal results. (Up-to-date, www.uptodate.com, article entitled Opioid intoxication in children and adolescents, 2019.)" Protection for children in these circumstances is important.

Dr. Susan Smolinske, director of the New Mexico Poison and Drug Information Center, cited these data from calls to the Poison Center in 2018 in New Mexico: 3 accidental ingestions of methadone and 22 of buprenorphine, largely of parents' medication. She stated that many of the ingestions were of partial tablets – removing full tablets from foil wraps is difficult, she indicates, but once a patient has cut a pill to take a lower dose, the remainder of the pill is no longer protected.

HSD commented, with regard to the original bill: "It is important to note that the provisions of the bill attempt to screen the state from legal liability by its addition of Licensed Registered Nurses and Licensed Practical who are employed by Opioid Treatment Programs and allowing

them to 'supply' Methadone and/or Buprenorphine. This bill adds language which complies with the strict Federal standards that regulate Opioid Treatment Programs. It would be advisable to clarify definitions of 'supplying' and 'dispensing' to avoid further conflict of terminology."

RLD stated with regard to the original bill that "In addition to patient and public safety issues, the proposed bill results in direct conflict with board of pharmacy and board of nursing statutes and regulations. Registered nurses and licensed practical nurses will dispense methadone and buprenorphine, exceeding even the statutory and regulatory allowances of nurse practitioners (whose training and scope of practice is more advanced and broader than registered or licensed practical nurses). Nurse practitioners are able to distribute, and are prohibited from dispensing."

To this point, current statute indicates the following in Section 24-23-1-H NMSA 1978: "A person who possesses or who administers, dispenses or distributes an opioid antagonist to another person pursuant to this section shall not be subject to civil liability, criminal prosecution or professional disciplinary action as a result of the possession, administration, distribution or dispensing of the opioid antagonist; provided that actions are taken with reasonable care and without willful, wanton or reckless behavior."

> DOH quotes its data as showing 6,641 New Mexicans in December 2018 receiving methadone paid by Medicaid. Other data from the same source are as follows: "In 2017 in NM, methadone was involved in approximately 32 drug overdose deaths (NMDOH Bureau of Vital Records and Health Statistics death data).
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> In 2017 in NM, most overdose deaths were due to non-fentanyl prescription opioids with a rate of 9.0/100,000, and heroin at 7.5/100,000 (all rates are age adjusted; data source is NMDOH Bureau of Vital Records and Health Statistics death data).
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> New Mexico had the 17th highest drug overdose death rate among all states in 2017, down from 12th in 2016 (CDC Drug Overdose Death Data: 2017 Deaths and 2016 Deaths), https://www.cdc.gov/drugoverdose/data/statedeaths.html"

DUPLICATION (possible) with Section 24-23-1-H NMSA 1978. See "Significant Issues" above.

AMENDMENTS

The bill could be amended to require that methadone be given to patients for at-home use only in child-proof packaging.

BN suggested adding the requirement that the nurse is giving out the medicine pursuant to an appropriate medical order.

LAC/al/sb