

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 02/26/13

SPONSOR Martinez, R. LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Controlled Substance Schedules & Packaging SB 583

ANALYST Jorgensen

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	\$31.7- \$624.0	\$31.7-624.0	\$62.4- \$1,248.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
 Administrative Office of the District Attorneys (AODA)  
 Attorney General's Office (AGO)  
 Department of Health (DOH)  
 New Mexico Corrections Department (NMCD)  
 Public Defender Department (PDD)  
 Regulation and Licensing Department (RLD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 583 (SB583) proposes to amend New Mexico laws that govern controlled substances.

Section 1 of SB583 proposes to amend 30-31-8 NMSA 1978, which defines Schedule III drugs. Specifically, SB583 proposes to remove all references to dihydrocodeinone (more commonly known as hydrocodone) from the list of compounds included in schedule III. The proposal is to move hydrocodone from Schedule III to Schedule II.

Section 2 of SB583 proposes to amend 30-31-23 NMSA 1978 by adding paragraph (3) to subsection A which would make it unlawful for a person to intentionally withhold information about concurrent prescribed use of a controlled substance when seeking a prescription for a prescribed substance. This paragraph also requires that "Information related to the prescribing, administering and dispensing of controlled substances shall be reported to a state or other public health or law enforcement agency pursuant to rule or by request in a manner that conforms to

state and federal privacy laws.” Section 2 of SB583 also adds subsection G, which defines a violation of paragraph (3) of subsection A to be a fourth degree felony.

Section 3 of SB583 proposes to add a new section requiring that controlled substance prescriptions be made on a tamper-resistant form (which is defined to include electronic media) and would require that practitioners employ reasonable safeguards to prevent the theft or unauthorized use of controlled substance prescription forms. SB583 would also require the Board of Pharmacy to adopt rules that define the features of tamper-resistant prescription forms.

### **FISCAL IMPLICATIONS**

The fiscal impact in the table above reflects a range based on the cost to incarcerate between one and 20 individuals for one year. It is likely that the costs provided in the table represent a minimum rather than a maximum cost of enactment of this legislation as the fourth degree felony for patient non-disclosure of concurrent prescriptions may affect a large number of individuals.

### **SIGNIFICANT ISSUES**

Hydrocodone (dihydrocodeinone) is an opioid analgesic that is similar in strength to morphine. It is used to treat moderate to severe pain. Hydrocodone is the most commonly prescribed controlled substance in New Mexico (NM PMP data, 2012). In the most common form it is combined with acetaminophen. Hydrocodone was involved in approximately 10% of drug overdose deaths in New Mexico between 2006 and 2011 according to New Mexico Office of the Medical Investigator data, analyzed by DOH.

Prescriptions for Schedule III drugs may have authorized refills while those for Schedule II drugs may not. The primary effect of moving hydrocodone from Schedule III to Schedule II would be to eliminate refills and thus require a new prescription each time a new supply of the drug was needed. In the first 6 months of 2012, there were 317,307 prescriptions for compounds containing hydrocodone in New Mexico, twenty percent allowed at least one refill. Of all prescriptions filled for hydrocodone compounds in that period, 15% were refills.

### **ADMINISTRATIVE IMPLICATIONS**

The RLD reports that the board will need to adopt rules defining tamper resistant prescription forms. Since the suppliers of prescription forms are not licensed by the board, no administrative actions could be taken for violations of the rules.

### **OTHER SUBSTANTIVE ISSUES**

Drug overdose death rates have risen sharply since the late 1990s, to the point where drug overdose has become the leading cause of unintentional injury death. The drug overdose death rate exceeds the death rates from falls and from motor vehicle traffic crashes both nationally and in New Mexico. Prescribing of opioid medications has substantially increased over the past two decades. Sales of opioid pain relievers have been associated with opioid pain reliever overdose deaths. As sales of opioid medications have increased, deaths have concurrently increased. New Mexico has one of the highest drug overdose death rates in the U.S.