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FISCAL IMPACT REPORT

SPONSOR Wirth DATE TYPED 03/09/05 HB 150/aHBIC

SHORT TITLE Availability of Prescription Drug Price Info SB _____

ANALYST Erin McSherry

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
NFI	Indeterminate	NFI	Indeterminate	Recurring	Board of Pharmacy

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files
Board of Pharmacy

SUMMARY

Synopsis of HBIC

The House Business and Industry Committee amendment provides that no owner of a pharmacy shall fail to provide the current retail price of a pharmaceutical to “a consumer or the office of the attorney general” rather than to a “person” as written in the original bill. The amendment also provides that no owner of a pharmacy shall be required to provide price information of more than five prescription drugs as one time only if: a request is made in writing, the requester has a valid prescription for all the pharmaceuticals under question, the time for responding to the request is five days or less and no more than three requests are made within a six-month period.

Synopsis of Original Bill

House Bill 150 requires pharmacies to provide the current retail price for a prescription drug, defined as the cash price for a prescription drug charged to a person who has no prescription drug coverage, to anyone requesting the information identified as a customer or the attorney general’s office. The bill stipulates that the information must be provided for any dosage or quantity to any person requesting the information via “phone, electronic device or otherwise.”

There is no appropriation associated with this bill. The Board of Pharmacy is a revenue-funded compliance and licensing professional board.

Significant Issues

According to the Board of Pharmacy, if this bill were to pass, patients would be interpreting/reading their prescription subject to misinterpretation. The Board asserts that pharmacies typically provide a price quote when asked, and that this price is subject to competitive pressure; a competitive price may be given instead of the usual retail price.

The intent of the proposed HBIC amendment is not clear. It is not known what or which party (pharmacy owner or customer) would determine if the time for responding to a request is no more than five days.”

PERFORMANCE IMPLICATIONS

It appears the intended outcome of House Bill 150 is for customers to make more informed choices regarding where to buy prescription drugs based on pricing comparisons, and resulting in better prices for consumers. It is not apparent whether the desired outcome would be attained through this statute.

Performance could be affected, according to the Pharmacy board, in terms of the level of price received by customers, and pharmacies’ ability to compete for business within a market system. The Board relates that a retail price for prescription drugs is not necessarily a fixed price. The pharmacy can offer competitive pricing, which according to the Board, is usually less than the normal price charged.

FISCAL IMPLICATIONS

Implications cited by the Board of Pharmacy relate predications that complaints from the public regarding the practice of pharmacy would increase significantly resulting in a higher number of investigations based on prices quoted or misquoted and the association of a price quote with the wrong chain store location. Increased investigations could mean the use of additional personnel for the pharmacy board which could in turn drive up the costs of pharmacist licenses.

ADMINISTRATIVE IMPLICATIONS

If House Bill 150 were to pass, the Board of Pharmacy relates that it would be required to adopt regulations and enforce the price disclosure requirement.

The Board of Pharmacy states that if documentation is required that it would be a burden on the pharmacy and would drive up the cost of doing business. The Board also contrasts the proposal to other professionals’ requirements, citing that providing a retail price is not required of any other health care provider. Increased regulation and costs to the pharmacy industry could be damaging to NM healthcare as there is a shortage of pharmacy professionals in the state.

TECHNICAL ISSUES

The words “only if” at the end of the HBIC proposed section (7) on page 2 in between lines 17 and 18 should be replaced with “unless.”

Clarification is needed for Section (7) b as to what the time for responding to the request is.

Documentation of the transaction between pharmacist and customer would be necessary to prove the compliance or non-compliance of a pharmacist with the statute. Documentation would be difficult for pharmacists and customers to attain over the phone, but could be easily provided through a printed receipt given in person, or by electronic device.

ALTERNATIVES

Pharmacies could be required to post a standard list of current “retail” prices, with updates on a regular basis rather than providing the information on an individual basis. An online database of current prices could be compiled and made public by the Pharmacy Board. The current law could be retained and pharmacies could relay to customers their respective pharmacies’ current prices upon request and at will.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

Without enacting this bill pharmacies will not be required to provide a current retail price for prescription drugs, but they still may do so. The Board of Pharmacy would not be responsible for investigating and determining the compliance and non-compliance for the proposed statute, but rather would continue the investigations of standing law.

According to the Board of Pharmacy, without this statute the market pressure will be the driving force in pharmacies providing prescription price quotes.

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