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FISCAL IMPACT REPORT

ORIGINAL DATE 1/29/2008

SPONSOR Taylor LAST UPDATED _____ HB _____

SHORT TITLE Financial Incentives For Clinical Decisions SM 29

ANALYST Moser

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

NM Medical Board (NMMB)

Health Policy Commission (HPC)

SUMMARY

Synopsis of Bill

Senate Memorial 29 requests the New Mexico Medical Board create rules to govern physicians' use of brand-name or generic drugs, including the disclosure to patients or about financial incentives that physicians receive for switching from brand name to generic drugs.

This memorial requests:

- The NMMB to promulgate rules to ensure the utmost transparency when physicians receive financial incentives for clinical decisions regarding the use of brand-name or generic drugs.
- The NMMB enjoin physicians receiving financial compensation for clinical decisions from interchanging a patient's medication, whether it be brand-name or generic, without prior notification of the change to the patient or the patient's parent, legal guardian or spouse.

SIGNIFICANT ISSUES

SM29 identifies the following issues regarding the use of generic drugs:

- Many insurance companies are taking steps to encourage physicians and patients to switch medications based increasingly on cost considerations.
- Generic prescriptions approved by the U.S. Food and Drug Administration are safe and effective and often represent an opportunity for greatly needed health care cost savings.
- The physician-patient relationship relies upon the confidential, honest and transparent exchange of information especially as relates to the use of prescribed medications.
- Physicians receiving financial incentives to prescribe certain medications and these actions may violate the integrity of the physician-patient relationship when the physician fails to inform their patients of the financial incentives they receive for prescribing medications pursuant to these incentives.

The Medical Board indicates that the concerns addressed in SM29 are covered in the American Medical Association (AMA) Code of Medical Ethics, adopted by the NM Medical Board pursuant to Section 9 of 16.10.8 NMAC. Section 8.03 of the AMA Code of Medical Ethics addresses conflicts of interest guidelines and states, “For a physician to unnecessarily hospitalize a patient, prescribe a drug, or conduct diagnostic tests for the physician’s financial benefit is unethical.” Section 8.054 addresses financial incentives and the practice of medicine. Paragraph (4) states “Patients must be informed of financial incentives that could impact the level or type of care they receive.” Section 8.135 addresses cost containment involving drugs in health care plans.

If a physician fails to comply with the requirements of the Medical Practice Act, the NM Medical Board may take necessary disciplinary action; however, the NM Medical Board will research the issues addressed in SM29 further and adopt appropriate safeguards to prevent conflicts of interest.

GM/bb