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FISCAL IMPACT REPORT

ORIGINAL DATE 02/02/09

SPONSOR Wirth LAST UPDATED _____ HB _____

SHORT TITLE Prescription Drug Retail Price Disclosure SB 129

ANALYST Wilson

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	\$0.1	\$0.1	\$0.1		Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)

Regulation & Licensing (RLD)

Retiree Health Care Authority (RHCA)

SUMMARY

Synopsis of Bill

Senate Bill 129 will amend the Pharmacy Act to require that pharmacies provide their current retail price of prescription medication upon request by consumers or the Attorney General's office when requested by phone, electronic device or otherwise.

SB129 defines current retail price as the cash price for the prescription medication charged to a consumer who has no prescription drug coverage.

SB129 proposes that if a consumer requests in writing the price for more than five prescription medications, has a valid prescription for the requested information and has not made more than three separate requests for more than five medications within a six month period, the owner of a pharmacy will be required to respond with the requested information within five days after the request is made.

FISCAL IMPLICATIONS

While there may be some fiscal impact related to investigation and prosecution, the fiscal impact will likely be minimal and is unknown at this time.

SIGNIFICANT ISSUES

The Attorney General's Office (AGO) maintains consumer drug pricing information on their website. Prices vary from pharmacy to pharmacy. Therefore, frequent updates to the prescription drug pricing must be conducted in order to provide consumers with current information.

Pharmacies are typically busiest the first three days of the week. Requests from the attorney general may include the prices for numerous drugs and strengths, which will demand a significant amount pharmacy staff's valuable time, which is normally dedicated to the safe filling of prescriptions. Prices for prescription drugs vary and the price given one day may not be the same the next day. Market forces, different drug wholesale distributors, volume discounts are a few of the factors that may affect the price of prescription drugs. In order for the attorney general price list to benefit the consumer, the office will need to update pricing information for prescription drugs on a regular basis.

Consumers pricing requests are accepted by the pharmacy as part of the responsibility of conducting business.

DOH provided the following:

New Mexico's spending on outpatient prescription drugs has risen considerably in recent years. Four trends contribute to this growth: physicians are prescribing more drugs, physicians are prescribing more expensive drugs, direct to consumer advertising is increasing, and drug prices are rising. These trends are not expected to abate any time soon; therefore the consumer must be proactive and request this information from pharmacies in order to make informed decisions.

A possible consequence of SB129 could be that it may affect the confidentiality of contracted price negotiations between drug manufacturers and the DOH. The DOH pharmacy currently supplies medications only to a small, limited population of clients. If consumers would request this information from the DOH pharmacy, it could lose its contracted pricing which would negatively impact the patients to whom these drugs are administered by possibly making those drugs more expensive.

ADMINISTRATIVE IMPLICATIONS

Complaints based on violations will be investigated and administratively prosecuted by the Board of Pharmacy.

The other affected agencies should be able to handle the enforcement of the provisions in this bill as part of ongoing responsibilities

TECHNICAL ISSUES

RLD noted that this bill not clearly include any requirements for how and when a pharmacy owner must respond to a price disclosure request except when a consumer requests the price of more than five prescription drugs at one time in writing.

DW/svb