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FISCAL IMPACT REPORT

SPONSOR Padilla **ORIGINAL DATE** _____
LAST UPDATED 01/21/15 **HB** _____

SHORT TITLE Drug Overprescribing Hotline **SB** 22

ANALYST Cerny

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		
	\$ 250.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$ 313.2	\$ 292.8	\$ 292.8	\$ 898.8	Recurring	General Fund & Pharmacy Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation & Licensing Department (RLD)

Department of Health (DOH)

SUMMARY

Synopsis of Bill

Senate Bill 22 adds a new section to the Drug, Device, and Cosmetic Act. This new section will require the New Mexico Board of Pharmacy (NMBOP) to establish and operate an over-prescribing hotline. This hotline will receive information from the public and other sources concerning practitioner controlled substance prescribing practices that may be excessive or in violation of established prescribing standards. This new hotline will be a twenty-four hour service. The hotline will be accessible to the public telephonically and through an Internet website.

Rules and procedures for investigation and discipline of suspected violators will need to be made in conjunction with individual practitioner licensing boards.

FISCAL IMPLICATIONS

The appropriation of \$250 thousand contained in this bill is a recurring expense to the General Fund. Any unexpended or unencumbered balance remaining at the end of the fiscal year shall revert to the general fund.

According to analysis from the RLD, the general fund appropriation is not sufficient to fund the needed FTEs, office space, technology and equipment, and twenty-four hour coverage of the hotline. Currently, RLD does not operate 24 hours a day.

RLD estimates the additional staffing, equipment, and space requirements as follows:

- 5.0 FTEs (168 hrs/40hrs/FTE) to operate the “hotline”
- 2.0 FTEs necessary for additional state drug inspectors for investigation of information received
- Office space for 7.2 FTEs
- 2 vehicles for investigative staff
- Telephones and computers for the additional staff
- Website design

The NMBOP is not a general fund agency. It funds operations through various fees collected pursuant to the Pharmacy Act and the Controlled Substances Act, deposited in the Pharmacy Fund. Agency analysis states that “Fees to current licensees would have to be increased in order to fund the recurring requirements of the ‘Excessive Prescribing Hotline.’”

DOH analysis concurs that the appropriation in SB 22 may be insufficient. DOH states that the funding “may be sufficient to establish the required web site and telephonic hotline; it may not be sufficient to publicize its availability. Funding may be insufficient to fund the investigation of likely additional complaints received by NMBOP.”

SIGNIFICANT ISSUES

Nationally New Mexico has been number one in overdose deaths for several years. Recently, New Mexico improved from first to third nationally in part due to new efforts by the various health care boards and the DOH to reduce the injudicious prescribing of controlled substances. Prescription opioids have driven the increase in overall overdose deaths during the past decade. More than half of the drug overdose deaths in New Mexico involve prescription drugs.

New Mexico has had a Prescription Drug Monitoring Program (PMP) operated by the NMBOP since 2004. It monitors the dispensing of all Schedule II, III, IV, and V controlled substances.

Over the course of the last two years, health care provider licensing boards have enacted rules changes to mandate use of the PMP for prescribers of controlled substances. All NM health care practitioners and pharmacies that dispense controlled substances must report dispensing information to the PMP. The PMP database is accessible to health care practitioners and to licensing boards. Health care practitioners are required to utilize the PMP as directed by each

practitioners licensing board; pharmacists are required to access the database at least annually for chronic pain patients and in other situations.

NMBOP believes this database has been very successful in this State's efforts in identifying "doctor shoppers," drug seekers, drug abusers, pill mill doctors, and over-prescribing practitioners.

The NMBOP receives complaints from numerous sources, including the public and other licensing boards. NMBOP inspectors investigate complaints, and frequently coordinate with other licensing boards and federal agencies regarding complaints against health care practitioners. In general, the health care practitioner's licensing board conducts their own investigation to determine whether they believe overprescribing has occurred.

There is currently no mechanism in place at any of the practitioner licensing boards to investigate anonymous complaints. Formal complaints are investigated, and PMP data can be requested as part of investigations. NMBOP may require a mechanism to investigate anonymous complaints, and the health care provider licensing boards would need to establish their own investigation procedures in response to this legislation.

ADMINISTRATIVE IMPLICATIONS

NMBOP will require an increased in office space, in equipment, and employees.

AMENDMENTS

This bill is proposed for the Drug, Device, and Cosmetic Act (Sections 26-1-1 through 26, NMSA 1978). RLD analysis states that the statutes more specific for controlled substances and their abuse is the NM Controlled Substances Act. See Section 30-31-8, NMSA 1978, Cooperative duties of board.

CAC/bb