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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 2/22/17  
**LAST UPDATED** 3/15/17      **HB** 370/HHHCS

**SPONSOR** Maestas Barnes/Dow

**SHORT TITLE** Opioid Overdose Education      **SB** \_\_\_\_\_

**ANALYST** Chilton

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

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		NFI*	NFI*	NFI*	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases) \*Because the committee substitute now states that the program will be carried out only as agency funding and supplies allow, there is no direct fiscal impact. The cost of a mandatory program is discussed under “fiscal implications” below.

Relates to House Bill 170 and Senate Bills 16 and 47, and to 2016 House Bill 277 and Senate Bills 262 and 263.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Regulation and Licensing Department (RLD)  
 Medical Board (MB)  
 Department of Health (DOH)  
 New Mexico Corrections Department (NMCD)  
 Department of Public Safety (DPS)

### SUMMARY

#### Synopsis of Bill

The committee substitute for House Bill 370 attempts to avoid opioid drug overdose death by making the antidote naloxone more available. It does so through the following requirements:

1. All federally-certified opioid treatment centers providing methadone or other detox or maintenance treatments would be requested to consider providing overdose education and two doses of naloxone and a prescription for naloxone, as agency supplies and funding allowed,
2. All local and state law enforcement agencies would be tasked with providing their officers, as funding and supplies permitted, with a naloxone rescue kit and to education on opioid poisoning and the use of the antidote
3. As Department of Corrections and local jails funding and supplies permitted, inmates released from prison or jail with a diagnosis of substance use disorder would be given

education regarding opioid overdoses and their treatment and modern methods of resuscitation, two doses of naloxone, and a prescription for naloxone.

## **FISCAL IMPLICATIONS**

There is no appropriation in this bill. Therefore, in each of the three sections of the bill, a statement has been inserted that notes the dependence of the program on agency resources and supplies, applying to opioid addiction treatment facilities, local and state police departments, and correctional institutions, respectively. There would be costs to educate DPS and NMCD staff responsible for implementing portions of the bill, as well as the cost of the naloxone kits themselves.

Naloxone kits cost \$50-\$100 or more apiece. DPS states that there are 670 State Police officers who would be required to carry the kits, and notes that the naloxone expires in 18-24 months, making this a recurrent cost, whether the kits were used or not. Taking the midpoint of the naloxone cost range, \$75, the cost for DPS to give each officer a naloxone kit would thus be approximately \$50,000. The manufacturer of a commonly used naloxone inhalation product, Adapt Pharmaceuticals, indicates that the expiration date of naloxone is 24 months from manufacture, but that the process of moving the drug from the manufacturer to the buyer may take six months, resulting in an 18 month remaining life before expiration. Kits used in the field by the officers would have to be replaced, at the same per unit cost. DPS estimates the cost of a 4-hour course in naloxone use, including time and travel, to be \$10,000, though webinar, video or locally-taught courses (perhaps in public health offices) might make the training much less expensive and much quicker.

Similarly, NMCD notes that the provisions of the bill would require education, a naloxone kit and a naloxone prescription for all prisoners discharged from county or local jails who had a substance use disorder. If the same cost per naloxone kit were applied to an estimate of the number of prison inmates with opioid use disorder released from New Mexico state correctional facilities in a year, it might be estimated as follows: 4021 inmates released in 2015 (from the New Mexico Sentencing Commission) x 71% with a chemical dependence disorder (from a study by Binswanger et al of the Washington state prison population, New England Journal of Medicine, 2007) x \$75 = \$214,120. Although the New Mexico prison population probably differs from year to year and from the Washington population, it is likely that this is the best estimate of need for naloxone that is available.

Of note, the estimate above applies only to state law enforcement personnel and prisoners released from state correctional institutions. The cost to opioid addiction treatment centers, county and municipal police forces and local jails would be likely to be high but difficult to estimate.

## **SIGNIFICANT ISSUES**

According to a February 7, 2017 press release from the New Mexico Department of Health regarding a grant to “fight drug abuse fatalities,” the “US Centers for Disease Control and Prevention (CDC) announced last month New Mexico’s drug overdose death rate improved from 49th worst in the nation to 43rd. New Mexico saw a 7 percent decline in drug overdose deaths from 2014 to 2015 as the nationwide overdose death rate increased by nearly 11 percent.” This would appear to indicate that some or all of the efforts begun in New Mexico in the past several years have had a positive effect in spite of the national epidemic of opiate abuse and death from

overdose. However from the most recent data available on the DOH IBIS website, the New Mexico rate of death from drug overdose in 2014 (before the improvement we've just seen) was 91 percent higher than the national rate (26.4 vs. 13.8 per 100,000 population).

The study in the New England Journal of Medicine referred to above indicates that those released from prison are at high risk of death during the first two years after release: 3.5 times as high a risk as the general population, and 12.7 times as high during the first two weeks after release. Throughout the first two years after release, the most common cause of death was drug overdose, which accounted for 23 percent of the deaths in the study, more deaths than homicide and suicide combined; the rate was 12.2 times that of the remainder of the state's population. RLD notes that a prescription for naloxone may not be necessary either for released prisoners or for opioid abuse treatment center clients because there exists a standing order in New Mexico pharmacies for naloxone for all New Mexicans.

RLD also notes the possibility that a law enforcement officer for some reason without naloxone when encountering a person with an opioid overdose may bear some liability.

DOH mentions the federal stance regarding opioid antagonist use as follows:

At the federal level, the Substance Abuse and Mental Health Services Administration (SAMHSA) has published an Opioid Overdose Prevention Toolkit. The toolkit can serve as a foundation for educating and training of prescribers, providers, first responders, patients, family members, and others in the community. SAMHSA advocates use of naloxone for first responders, and it partners with federal, state, and local law enforcement to expand the safe administration of naloxone. SAMHSA's toolkit provides facts about opioid risks, five essential steps for first responders, information for prescribers, safety advice, and additional resources. It does not include detailed information about creating a safety plan for at-risk individuals, which is included in current trainings by BHSD.

## **ADMINISTRATIVE IMPLICATIONS**

NMCD notes that because the opioid overdose education required by this bill may be considered education instead of treatment, the NMCD may have to amend its behavioral health contract to require the inclusion of the education program or otherwise provide the education program with NMCD staff.

**RELATIONSHIP** to Senate Bill 16, which would require medical care providers prescribing opioids to counsel patients about the risks of their new prescription and provide them with naloxone and Senate Bills 16 and 47, and to 2016 House Bill 277 and Senate Bills 262 and 263.

**RELATIONSHIP** to Senate Bill 47, which would extend immunity from prosecution for persons requesting medical assistance because of an alcohol or drug overdose, even if violating a restraining order, parole, or probation.

**RELATIONSHIP** to House Bill 170, which would exempt physicians caring for cancer patients from having to check the provider registry before prescribing opioids.

## **TECHNICAL ISSUES**

HB370 asks that an inmate who has been diagnosed with a substance use disorder be given

opioid overdose education, two doses of naloxone, and a prescription for naloxone. However, the language of the bill does not indicate when that diagnosis must occur in order for those actions to be mandated. It is not clear if the diagnosis must occur during incarceration or could occur before incarceration, in which case the corrections facility may not be aware of diagnosis. It is also not always the case that a substance use disorder is associated with opioid use.

NMCD notes that, “While this information [education on saving the life of someone undergoing a drug overdose] may be useful to inmates, it may be equally valuable to the family members and others who live with and care for inmates who have overdosed and need immediate medical assistance including an emergency dose of naloxone. The bill does not address this issue.”

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Naloxone, which can be life-saving in an acute opioid drug overdose, would not be as widely available as if the bill were enacted.

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