

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

FISCAL IMPACT REPORT

SPONSOR <u>SJC</u>	LAST UPDATED _____
	ORIGINAL DATE <u>02/22/2023</u>
SHORT TITLE <u>Pharmacist Scope of Practice</u>	BILL NUMBER <u>CS/Senate Bill 92/SJCS</u>
	ANALYST <u>Chilton</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact			

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

Office of the Superintendent of Insurance (OSI)

Medical Board (NMMB; input amended February 7, 2023)

University of New Mexico Health Sciences Center (UNM HSC)

SUMMARY

Synopsis of SJC Substitute for Senate Bill 92

The Senate Judiciary Committee substitute for Senate Bill 92 amends the Pharmacy Act (Section 61-11 NMSA 1978) to expand the scope of pharmacist practice.

In Section 1 of the bill, the definition of “practice of pharmacy” is changed to include administering or prescribing devices or supplies or administering drug therapy, and the ordering, performing and interpretation of CLIA-waived (CLIA=Clinical Laboratory Improvement Amendments) but Federal Drug Administration (FDA)-authorized tests. It also includes the maintenance of proper records consistent with standard medical practice.

Section 2 of the bill is new material, allowing a pharmacist to “order, test, screen and treat” for five enumerated conditions (Covid, influenza, group A strep pharyngitis, uncomplicated urinary tract infection, and HIV [limited to pre- and post-exposure prophylaxis]) and other conditions of public health importance identified by the Department of Health. The pharmacist her/himself may perform any CLIA-waived test or “screening procedure [deemed to be] safely performed by

a pharmacist,” or may delegate performance of the test to pharmacy technicians or interns under his/her supervision. Subject to OSI approval, insurance companies cannot fail to pay for tests and other services and procedures that a pharmacist is authorized to perform and that would be reimbursed for if performed by a physician, nurse practitioner or physician assistant.

The effective date of this bill is July 1, 2023.

FISCAL IMPLICATIONS

There is no appropriation in Senate Bill 92. There is no anticipated fiscal impact on the agencies listed above, including the Pharmacy Board or its parent agency, the Regulation and Licensing Department.

SIGNIFICANT ISSUES

UNM HSC makes note of the insufficient supply of health care providers in almost all parts of New Mexico, indicating that pharmacists, well-trained health care professionals, are available and able to perform some of the tasks that physicians and physician extenders would otherwise perform.

UNM HSC continues, “Pharmacists are an underutilized, highly trained, healthcare professional workforce. The Doctor of Pharmacy (aka PharmD) degree is the entry-level degree and requires a minimum of 3 years of undergraduate prerequisite training prior to the 4-year professional program consisting of extensive training in pathophysiology, pharmacology, medicinal chemistry, clinical reasoning, and pharmacotherapeutics.

“The value of the pharmacist was demonstrated during the Covid-19 pandemic when pharmacists across the country expanded their clinical services in conducting more than 42 million COVID-19 tests, providing more than 270 million Covid vaccinations, providing more than 50 million influenza vaccinations and providing an uncounted number of antibody and antiviral medications. By conservative estimates, pharmacists’ efforts during Covid-19 averted more than 1 million deaths, more than 8 million hospitalizations, and \$450 billion in healthcare costs.”

According to OSI, “Since this act’s reimbursement requirement on insurers is not included in the Insurance Code, the Superintendent of Insurance has no authority to enforce this reimbursement requirement or requires insurers to include this language in insurance policies. The Superintendent has no enforcement authority, including ability to issue fines or penalties for noncompliance, over provisions in the Pharmacy Act. There is no indication that carriers issuing policies under the Health Care Purchasing Act would be subject to the reimbursement requirement.”

In initially approving this legislation, NMMB noted that “SB92 will allow pharmacists to consult with the New Mexico Medical Board better for maximum patient safety and collaborate more efficiently without having to block access to care. This bill would also allow the Board of Pharmacy to better regulate what the pharmacists can and cannot do, all the while the Medical Board will be consulted in the process.” However, it now appears to NMMB that consultation with medical providers is not assured, and that the addition of a number of diseases and conditions to the original list (only Covid, influenza and group A Streptococcal pharyngitis) was not approved by NMMB.

RELATIONSHIP

Related to House Bill 93, which makes a number of changes in the Pharmacy Act but does not conflict with the provisions of this bill.

TECHNICAL ISSUES

As noted by OSI:

- The proposed legislation does not include amendments to the insurance code, which would be necessary for the Superintendent to enforce the insurance provisions. It does not address carrier reimbursement obligations for health care plans issued to state employees pursuant to the Health Care Purchasing Act.
- Paragraph D of Section 2's references to health insurance regulated by the Superintendent are confusing due to lack of cross reference to, or inclusion in, the Insurance Code.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

As noted by RLD, "Pharmacists will continue to not be able to directly provide timely treatment for specified conditions. Patients and the health care system will continue to be required to incur associated costs, including visits with another practitioner for a prescription following a positive test result, and potential delays in treatment."

LAC/al/ne/rl