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FISCAL IMPACT STATEMENT

LS 6757

BILL NUMBER: SB 575

NOTE PREPARED: Mar 31, 2009

BILL AMENDED: Feb 5, 2009

SUBJECT: Tamper Resistant Prescription Drug Forms.

FIRST AUTHOR: Sen. Dillon

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: This bill requires the Indiana Board of Pharmacy (Board) to: (1) develop and issue an official tamper-resistant prescription drug form; and (2) develop a prescription drug program that includes criteria to eliminate prescription drug fraud. It specifies requirements for the official tamper-resistant prescription drug forms. (The Board of Pharmacy operates within the Indiana Professional Licensing Agency)

The bill requires practitioners to use official tamper-resistant prescription drug forms issued by the Board when issuing a written prescription. It also requires practitioners to notify the Board if the forms are lost, stolen, or not received.

The bill prohibits a pharmacist from filling a written prescription that is issued by an Indiana practitioner if the prescription is not on an official tamper-resistant prescription drug form. The bill provides an exception for prescriptions generated within a licensed health care facility if the drug is dispensed internally to a patient of the facility and the patient is never in possession of the prescription.

The bill requires the Indiana Health Informatics Corporation to prepare a plan for statewide electronic prescribing.

Effective Date: July 1, 2009.

Summary of NET State Impact: (Revised) This bill would require \$4.1 M to provide for the state issuance of an official tamper-resistant prescription drug form, \$538,000 for an additional 10 positions in the Professional Licensing Board (IPLA), and an estimated \$100,000 for Medicaid claims processing systems

modifications. This estimate does not include other operating expenses to equip, supply, or house the additional staff necessary to operate the program within the IPLA; any necessary enhancements to the IPLA computer system; or associated enforcement costs to law enforcement, IPLA, or the Attorney General. If a program to provide validation of prescriptions would achieve savings similar to those experienced in New York State, the Medicaid fee-for-service drug expenditures may be reduced by approximately \$12.4 M after the program is implemented. Depending on the date of full implementation, the level of savings in Medicaid may be temporarily reduced due to Medicaid stimulus funding available under the American Recovery and Reinvestment Act (ARRA), which would temporarily reduce the required state match. An indeterminate level of savings may also be realized in state and local government employee health benefit plans.

Explanation of State Expenditures: The bill requires the Board of Pharmacy to develop and issue at no charge to practitioners, an official tamper-resistant prescription drug form. In order to provide the secure issuance of tamper-resistant prescription forms, several additional activities will be necessary including a secure prescription ordering system, a security audit process for the production facility, secure distribution of prescription forms, and a point-of-sale validation process using the required bar code. The Board has estimated the cost of this provision to be \$4.1 M in state General Funds. This estimate is based on assumptions taken from 2007 data generated by the program in the state of New York. The Indiana Professional Licensing Board (IPLA) has also estimated that an additional 10 positions would be necessary to administer the program. Salaries and benefits for the additional positions are estimated to cost \$538,000. This estimate does not include other operating expenses to equip, supply, or house the additional staff necessary to operate the program within the IPLA, any necessary enhancements to the IPLA computer system, or associated enforcement costs to law enforcement, IPLA, or the Attorney General.

The Board would be required to issue rules to implement the program. Rule-making activities are administrative in nature, and the Board should be able to accomplish the required task within the existing level of resources available to the IPLA.

(Revised) *Medicaid:* The provision that requires the Board of Pharmacy to provide prescription forms at no cost may qualify for federal administrative match of 50% within the Medicaid program. If a state elects to purchase secure prescription pads for Medicaid prescriptions and provide them to practitioners at no cost, the cost of the prescription pads would be eligible for federal administrative match.

The bill also requires the prescription drug form to include a counterfeit protection bar code. The Board believes that the state's Medicaid pharmacy claims editing program would require modification. The cost of a one-time Medicaid claims processing system modification would depend on the scope of the required changes and based on experience in New York, has been estimated to require approximately \$200,000. If federal administrative match is available for this systems modification, \$100,000 in state general funds would be required.

(Revised) *Potential Savings:* The point-of-sale prescription validation system required to be a component on official tamper-resistant drug forms was credited with annual savings of approximately \$136 M in New York State. The amount of savings was based on the number of prescriptions that were denied for payment due to invalid prescription identifiers, before the prescriptions were filled. If the Indiana fee-for-service Medicaid program experienced similar results to those realized in New York, savings of approximately \$12.4 M in state General Funds might be achieved upon full implementation of a point-of-sale prescription validation program. This savings estimate does not include savings that might be realized under the Medicaid managed care contracts as a result of the implementation of a point-of-sale validation system. The state may also realize savings within the state employee health care benefit plan as a result of a point-of-sale validation

system. Private insurers and self-insured organizations should also see a benefit as a result of the implementation of a point-of-sale validation system.

Indiana Health Informatics Corporation: The bill requires the Indiana Health Informatics Corporation to prepare a plan for statewide electronic prescribing. The cost of this provision is indeterminate. The availability of funds for this activity would depend on actions taken by the administration or the General Assembly.

Background Information: The *Indiana Health Informatics Corporation (IHIC)* was established by the SEA 551-2007 as a body politic and corporate. The IHIC is not a state agency. The IHIC is governed by a nine-member board consisting of the Secretary of the Office of the Family and Social Services Administration (FSSA), the Commissioner of the Indiana State Department of Health (ISDH), and seven members appointed by the Governor, one of whom must be a physician and one must be a hospital administrator.

SEA 551-2007 allows the IHIC to direct and conduct research activities and encourage and facilitate planning and implementation on a regional basis. The IHIC may further direct that assistance, information, and advice be given to the IHIC by the executive branch of state government. The legislation further specifies that the head of any state department or agency may assign a state employee to the IHIC on a temporary basis or may direct a state department or agency to make a special study or survey requested by the IHIC.

The *Board of Pharmacy* currently does not provide prescription forms for practitioners. The Board has promulgated rules that define what the security prescription forms must look like and certain printers are approved to produce the forms. The IPLA reports that the current rules for prescription security features meet the federally required characteristics defined by the Centers for Medicare and Medicaid Services (CMS).

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) Local governmental units may also realize savings within their employee health care benefit plans as a result of a point-of-sale validation system.

Explanation of Local Revenues:

State Agencies Affected: Office of Medicaid Policy and Planning, FSSA; Board of Pharmacy, Indiana Professional Licensing Agency.

Local Agencies Affected:

Information Sources: Board of Pharmacy, Indiana Professional Licensing Agency; CMS, Center for Medicaid and State Operations at: <http://www.cms.hhs.gov/SMDL/downloads/SMD081707.pdf>; Indiana Health Coverage Programs, Provider Bulletin, August 21, 2008, Tamper-Resistant Prescription Pads, Additional Information at: <http://www.indianamedicaid.com/ihcp/Bulletins/BT200834.pdf>.

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