

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: 08/06/2012
POSITION: Neutral

BILL NUMBER: SB 1095
AUTHOR: Rubio, Michael

BILL SUMMARY: Pharmacy: clinics.

This bill would allow outpatient settings and ambulatory surgical centers (ASCs) to purchase drugs at wholesale for administration or dispensing, as specified.

FISCAL SUMMARY

The Department of Consumer Affairs (DCA) indicates that this bill would require the Pharmacy Board to hire one additional Pharmacy Inspector in order to inspect approximately 450 surgical clinics. The DCA estimates the cost of one inspector position to be \$164,000 annually. The DCA estimates that this bill would result in additional licensing revenue of \$180,000 in 2012-13, \$125,000 in 2013-14, and \$132,000 in 2014-15. The DCA charges \$400 for a new license and \$250 for an annual renewal. The DCA estimates that this bill will result in the licensure of an additional 450 clinics in the first year and the licensure of 30 clinics per year thereafter.

The Pharmacy Board Contingent Fund has a sufficient reserve to absorb these costs without the need to increase fees in the near future. Any request for additional expenditure authority is subject to review and approval through the annual budget process.

Any local government costs resulting from the mandate in this measure would not be state-reimbursable because the mandate only involves the definition of a crime or the penalty for conviction of a crime.

COMMENTS

The Department of Finance is neutral on this bill. This bill would allow specified outpatient settings and ASCs to purchase drugs at a reduced price. ASCs were able to purchase drugs at wholesale until a 2007 court case held that all physician operated and run ASCs were required to be licensed exclusively by the accrediting organizations approved by the Medical Board and not by the Department of Public Health (DPH). Under current law, a facility must be licensed by the DPH in order to be licensed by the Pharmacy Board to be able to purchase these drugs at wholesale prices.

Current law:

- Provides for the licensure and regulation of the practice of pharmacy by the Pharmacy Board.
- Authorizes a surgical clinic that is licensed by the Pharmacy Board to purchase drugs at wholesale for administration or dispensing to patients registered for care.
- Prohibits a surgical clinic from operating without a license issued by the Pharmacy Board.
- Authorizes the Pharmacy Board to inspect a surgical clinic at any time to check for compliance.
- Defines an ASC as a specialty clinic that is not part of a hospital and is eligible for state licensure. These clinics perform medically-necessary procedures for same-day surgical patients with stays

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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

Rubio, Michael

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COMMENTS (continued)

of less than 24 hours. Current law also does not allow physician-owned ASCs to be licensed by the DPH.

- Requires accredited outpatient settings to be inspected by the accrediting agency. Current law also requires the accrediting agency to send a list of deficiencies and corrective actions to the Medical Board.

This bill would:

- Authorize the Pharmacy Board to license outpatient settings and ASCs in a similar manner to how surgical clinics are now licensed.
- Specify that outpatient settings and ASCs must only be licensed by the Pharmacy Board if they intend to administer or dispense drugs.
- Require a license for each clinic location.
- Authorize the Pharmacy Board to inspect outpatient settings and ASCs as long as they have been licensed by the Pharmacy Board.
- Require the accrediting agency of an outpatient setting that is licensed to purchase drugs at wholesale to send a list of deficiencies and the corrective action to the Board of Pharmacy. This bill would also require the accrediting agency to report if an outpatient setting has been issued a reprimand or has had its accreditation suspended or revoked.

According to the author's office, approximately 90 percent of ASCs have some type of physician ownership. As a result of *Capen v. Shewry*, ASCs with physician ownership have to purchase drugs at retail prices. This bill would allow these ASCs with physician ownership to obtain the license necessary to purchase drugs at wholesale prices.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)						Fund
	LA	(Dollars in Thousands)						
	CO	PROP						
	RV	98	FC	2012-2013 FC	2013-2014 FC	2014-2015 Code		
1110/ConAfr-ReqBd	SO	No	A	0 C	164 C	164	0767	
1200/Reg Tax&Licn	RV	No	U	180 U	125 U	132	0767	
8885/Comm St Mndt	LA	No		----- No/Minor Fiscal Impact -----			0001	
<u>Fund Code</u>	<u>Title</u>							
0001	General Fund							
0767	Pharmacy Board Contingent Fund							