

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2567 - SB 3003

March 8, 2012

SUMMARY OF BILL: Requires the Board of Pharmacy to publish a list of opioid analgesic drugs (OAD) that incorporate tamper resistance technology. Prohibits any pharmacist from interchanging or substituting an OAD, brand or generic, for an OAD incorporating tamper resistance technology without: verifying that the OAD has been listed by the Board as providing tamper resistance properties substantially similar to the prescribed OAD that incorporates a tamper resistance technology; or obtaining written, signed consent from the prescribing physician for such interchange or substitution.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$699,100

Increase Federal Expenditures – \$1,368,500

Assumptions:

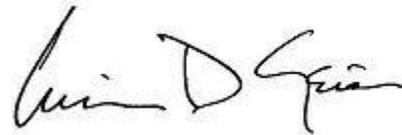
- Under current law, a pharmacist is required to dispense a prescription with the least expensive generic equivalent, unless specifically directed by the prescriber to dispense as written, there are noted adverse reactions, or the generic is ineffective.
- According to the Bureau of TennCare, there are currently six available products that meet the definition of an OAD that incorporates a tamper resistance technology. These tamper-resistant products all require prior authorization under the TennCare program.
- According to the Bureau, a pharmacist can interchange a generic equivalent for a branded product without contacting the prescriber if the generic has received an AB equivalence rating. Any branded products for which there are no AB rated generics require the pharmacist to obtain prior authorization before a substitution can be made.
- Since there are no AB rated generic equivalents available for tamper-resistant OADs, all prescription written for a tamper-resistant OAD would require written, signed consent from the prescribing physician before a non-tamper resistant product could be dispensed in place of a tamper-resistant product.
- According to the Bureau, this represents a significant variation from and disruption of current practice and will lead to more requests for prior authorization and greater usage of more expensive products.

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- The Bureau's current utilization rate of tamper-resistant OADs is 48,768 claims per year, and the average cost per prescription is \$195.95 after rebates. The average cost of non-tamper resistant OADs is \$112.61 less, or \$83.34 per prescription, after rebates.
- Based on the experience with additional physician notification requirement for epilepsy anti-convulsants, the Bureau estimates that the requirements of the proposed legislation will increase utilization of tamper-resistant OADs by 37.65 percent.
- As a result, the Bureau anticipates an additional 18,361 tamper-resistant OAD prescriptions to be filled (48,768 x 37.65%) at an increased cost of \$2,067,632 per year (18,361 x \$112.61). Of this amount, \$699,108 will be state funds at a rate of 33.812 percent and \$1,368,524 will be federal funds at a 66.188 percent match rate.
- The Board of Pharmacy will not experience a significant increase in expenditures to comply with the requirements of the proposed legislation. Ensuring compliance with the provisions of this bill will not have a significant fiscal or regulatory impact on the Board and can be accommodated within existing budgetary resources.
- Pursuant to Tenn. Code Ann. § 4-3-1011, all health-related boards are required to be self-supporting over a two-year period. As of June 30, 2011, the Board had a cumulative balance of \$844,197.81.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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