

New Mexico 2018 Legislative Session Recap

The 30-day fiscal session of the New Mexico Legislature ended on Feb. 15. This is a report on the activities of New Mexico Pharmacy Business Council and outcomes of the session.

Legislation

It was a largely quiet session, but there was a number of bills introduced that would have affected both our pharmacists and the industry. However, none of them made it through the process.



Helpful Bills:

HB 104 Rural Health Care Tax Credit | Rep. Miguel Garcia, Albuquerque — would have added pharmacists to an expanded list of NM health practitioners eligible to claim the \$5,000 Rural Health Care Practitioner tax credit. The bill was referred to both the Taxation & Revenue Committee and the Health & Human Services Committee, clearing only HHSC.

SB 258 Pharmacy Act Licensure & Registration | Sen. Pete Campos, Las Vegas — would have amended the Act on behalf of the Board of Pharmacy to modify licensing requirements for pharmacies and wholesale drug distributors, and modify the criteria for the revocation of those licenses. The bill was referred to the Senate Judiciary Committee, which reported the amended bill out on Feb. 12 with a “do pass” recommendation.

Problem Bills:

SB 68; SB 128: Tax Code Clean-up & Reporting | Sen. Carlos Cisneros, Questa — would have required that Gross Receipt Tax deductions for prescription drugs be reported individually (not currently required) and in aggregate to the Taxation & Revenue Department, whose findings would then be submitted to the Legislature for consideration in future tax reform deliberations. SB 128 was reported to the Finance Committee and the Corporations and Transportation Committee. A committee substitute was produced in Corporations and Transportation; the bill was reported out of committee on Feb. 6 with a “do not pass” recommendation and no recommendation on the committee substitute.

Legislative Allies



Rep. J. Townsend

Rep. James Townsend of Artesia has become a champion for Independent Pharmacy. During the session, he called a meeting for independent pharmacists, health plans, PBMs and several state agencies that do group purchasing with ExpressScripts. Several other rural legislators attended, including:

- Rep. Gail Armstrong of Magdalena
- Rep. Paul Bandy of Aztec
- Rep. David Gallegos of Eunice
- Rep. Rod Montoya of Farmington
- Rep. Rick Little of Chaparral

The meeting clearly put a spotlight on our critical reimbursement problems. Townsend and other legislators made it clear that the status quo is unacceptable and encouraged industry players to identify a genuine solution or look at the Legislature addressing the issues in a bill in the 2019 session.

NMPBC Board Chair Danny Cross of Carlsbad, Secretary/Treasurer Ashley Seyfarth of Bloomfield and NMPBC member Brian Hunt of Santa Fe were joined at the meeting by former New Mexico Pharmacists Association Presidents Kirk Irby of Artesia and Charles Shannon of Roswell. Their points were well-taken and made an impact on the attending legislators and agency representatives. This engagement demonstrated that our story is understandable and provides some direction for education going forward.

Ongoing Challenges

While good progress was made at the meeting in helping legislators understand how often NM retail pharmacies are reimbursed below acquisition cost, there is more education that needs to be done, such as explaining all the fees that are deducted from reimbursements.

NMPBC Executive Director Michael Wright said NMPBC will continue to focus on attainable incremental gains in the interim and during the 2019 Session. DIR fees, which represent the lion's share of the PBM deductions that are damaging reimbursements, remain a federal issue in Medicare D plans and until a commercial contract appears with DIR like fees in New Mexico, there is little that can be done to address that problem at the state level.

2018-19 Focus

Although New Mexico's fiscal outlook improved in 2017 due to rebounding oil and gas production activity, tax reform is not a dead issue. Although no tax legislation passed in the 2018 session that would adversely affect independent pharmacies, we should expect that tax legislation will surface again 2019. **Assessing the Gross Receipts Tax on prescription drug sales remains problematic (what is the cost basis for the prescription and who rightfully should pay the tax?), so NMBC will focus in 2018 on developing policy positions on what type and level of gross receipts tax we could live with.**

We are continuing to work closely with the Office of the Superintendent of Insurance on issues related to implementation and enforcement of MAC transparency and enforcement of our 2017 ban on transaction fees. We continue to receive some reports that transaction fees are being assessed in apparent violation of the law and are working with OSI to address them.

The NMPBC Board will meet this spring and summer to develop its legislative priorities and agenda for 2019.