LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 1998

CHAPTER:41

NJSA:30:4D-17.16 et al
"Drug Utilization Board"

BILL NO: A2190

SPONSOR(S): Blee and Murphy

DATE INTRODUCED: June 11, 1998

COMMITTEE:
ASSEMBLY: Senior Issues
SENATE: ~~~~

AMENDED DURING PASSAGE: No

DATE OF PASSAGE:
ASSEMBLY: June 25, 1998
SENATE: June 29, 1998

DATE OF APPROVAL: June 30, 1998

THE FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: Original
(Amendments during passage denoted by superscript numbers)

A2190

SPONSORS STATEMENT: *Yes* (Begins on page10 of original bill)

COMMITTEE STATEMENT:
ASSEMBLY:*Yes*
SENATE: *No*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

VETO MESSAGE: *No*

GOVERNOR'S PRESS RELEASE ON SIGNING: *Yes*

THE FOLLOWING WERE PRINTED:

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REPORTS: *No*

HEARINGS: *No*

NEWSPAPER ARTICLES: *No*

ASSEMBLY, No. 2190

STATE OF NEW JERSEY

208th LEGISLATURE

INTRODUCED JUNE 11, 1998

Sponsored by:
Assemblyman FRANCIS J. BLEE
District 2 (Atlantic)
Assemblywoman CAROL J. MURPHY
District 26 (Essex, Morris and Passaic)

SYNOPSIS

Establishes Drug Utilization Review Board in Department of Human Services for State-funded pharmaceutical benefits programs; appropriates $90,000.

CURRENT VERSION OF TEXT

As introduced.

AN ACT establishing the Drug Utilization Review Board for State pharmaceutical benefits programs, amending and supplementing P.L.1993, c.16, and making an appropriation.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.1993, c.16 (C.30:4D-17.16) is amended to read as follows:

1. As used in this act:

"Beneficiary" means a person participating in a State pharmaceutical benefits program.

"Board" means the **[**Medicaid**]** Drug Utilization Review Board established pursuant to **[**this act**]** section 2 of P.L. , c. (C.)(pending before the Legislature as this bill) in connection with State pharmaceutical benefits programs.

"Compendia" means those resources widely accepted by the medical profession in the efficacious use of drugs which is based on, but not limited to, these sources: the "American Hospital Formulary Services Drug Information," the "U.S. Pharmacopeia-Drug Information," the "American Medical Association Drug Evaluations," and the peer-reviewed medical literature, and information provided from the manufacturers of drug products.

"Criteria" means those explicit and predetermined elements that are used to assess or measure drug use on an ongoing basis to determine if the use is appropriate, medically necessary, and not likely to result in adverse medical outcomes.

["Division" means the Division of Medical Assistance and Health Services in**]** "Department" means the Department of Human Services.

"Drug interactions" means the occurrence when two or more drugs taken by a recipient lead to clinically significant toxicity that is characteristic of one or any of the drugs present or that leads to the interference with the effectiveness of one or any of the drugs.

"Drug-disease contraindication" means the occurrence when the therapeutic effect of a drug is adversely altered by the presence of another disease or condition.

"Intervention" means a form of educational communication utilized by the board with a prescriber or pharmacist to inform about or to influence prescribing or dispensing practices.

"Medicaid" means the program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

"Overutilization or underutilization" means the use or non-use of a drug in quantities such that the desired therapeutic goal is not achieved.

"PAAD" means the program of pharmaceutical assistance to the aged and disabled established pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.).

"Prescriber"means a person authorized by the appropriate State professional and occupational licensing board to prescribe medication and devices.

"Prospective drug utilization review" means that part of the drug utilization review program that occurs before the drug is dispensed and is designed to screen for potential drug therapy problems based on knowledge of the patient, the patient's continued drug use and the drug use criteria and standards developed by the board.

"Retrospective drug utilization review" means that part of the drug utilization review program that assesses or measures drug use based on an historical review of drug use data against criteria and standards developed by the board on an ongoing basis with professional input.

"Standards" means the acceptable range of deviation from the criteria that reflects local medical practice and that is tested on the **[**Medicaid recipient**]** beneficiary database.

"State pharmaceutical benefits program" means the following programs: Medicaid, PAAD, the AIDS drug distribution program, and any other State and federally funded pharmaceutical benefits program.

"Therapeutic appropriateness" means drug prescribing and dispensing based on rational drug therapy that is consistent with the criteria and standards developed pursuant to **[**this act**]** P.L.1993, c.16 (C.30:4D-17.16 et seq.) and section 2 of P.L. , c. (C.)(pending before the Legislature as this bill).

"Therapeutic duplication" means the prescribing and dispensing of the same drug or of two or more drugs from the same therapeutic class when overlapping time periods of drug administration are involved and when the prescribing or dispensing is not medically indicated.

(cf: P.L.1993, c.16, s.1)

2. (New section) a. There is established the Drug Utilization Review Board in the department to advise the department on the implementation of a drug utilization review program pursuant to P.L.1993, c.16 (C.30:4D-17.16 et seq.) and this section. The board shall establish a Senior Drug Utilization Review Committee to address the specific prescribing needs of the elderly and an AIDS/HIV Drug Utilization Review Committee to address the specific prescribing needs of persons with AIDS/HIV, in addition to such other committees as it deems necessary. It shall be the responsibility of each committee to evaluate the specific prescribing needs of its beneficiary

population, and to submit recommendations to the board in regard thereto.

The board shall consist of 15 members, including the Commissioners of Human Services and Health and Senior Services or their designees, who shall serve as a nonvoting ex officio members, and 13 public members. The public members shall be appointed by the Governor with the advice and consent of the Senate. The appointments shall be made as follows: six persons licensed and actively engaged in the practice of medicine in this State, including at least two who specialize in geriatric medicine and two who specialize in AIDS/HIV care, one of whom who is a pediatric AIDS/HIV specialist, four of whom shall be appointed upon the recommendation of the Medical Society of New Jersey and two upon the recommendation of the New Jersey Osteopathic Association; one person licensed as a physician in this State who is actively engaged in academic medicine; four persons licensed in and actively practicing or teaching pharmacy in this State, who shall be appointed from a list of pharmacists recommended by the New Jersey Pharmacists Association, the New Jersey Council of Chain Drug Stores, the Garden State Pharmacy Owners, Inc., the New Jersey Society of Hospital Pharmacists, the Academy of Consultant Pharmacists and the College of Pharmacy of Rutgers, the State University; one additional health care professional; and one member to be appointed upon the recommendation of the Pharmaceutical Research and Manufacturers of America.

Each member of the board shall have expertise in the clinically appropriate prescribing and dispensing of outpatient drugs.

b. All appointments to the board shall be made no later than the 60th day after the effective date of this act. The public members shall be appointed for two-year terms and shall serve until a successor is appointed and qualified, and are eligible for reappointment; except that of the public members first appointed, eight shall be appointed for a term of two years and five for a term of one year.

c. Vacancies in the membership of the board shall be filled in the same manner as the original appointments were made but for the unexpired term only. Members of the board shall serve with compensation for the time and expenses incurred in the performance of their duties as board members, as determined by the Commissioners of Human Services and Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting in the Department of the Treasury.

d. The board shall select a chairman from among the public members, who shall serve a one-year term, and a secretary. The chairman may serve consecutive terms. The board shall adopt by-laws. The board shall meet at least quarterly and may meet at other times at

the call of the chairman. The board shall in all respects comply with the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.). No motion to take any action by the board shall be valid except upon the affirmative vote of a majority of the authorized membership of the board.

e. The duties of the board shall include the development and application of the criteria and standards to be used in retrospective and prospective drug utilization review. The criteria and standards shall be based on the compendia and developed with professional input in a consensus fashion. There shall be provisions for timely reassessments and revisions as necessary and provisions for input by persons acting as patient advocates. The drug utilization review standards shall reflect the local practices of prescribers, in order to monitor:

(1) therapeutic appropriateness;

(2) overutilization or underutilization;

(3) therapeutic duplication;

(4) drug-disease contraindications;

(5) drug-drug interactions;

(6) incorrect drug dosage;

(7) duration of drug treatment; and

(8) clinical drug abuse or misuse.

The board shall recommend to the department criteria for denials of claims and establish standards for a medical exception process. The board shall also consider relevant information provided by interested parties outside of the board and, if appropriate, shall make revisions to the criteria and standards in a timely manner based upon this information.

f. The board, with the approval of the department, shall be responsible for the development, selection, application and assessment of interventions or remedial strategies for prescribers, pharmacists and beneficiaries that are educational and not punitive in nature to improve the quality of care, including:

(1) Information disseminated to prescribers and pharmacists to ensure that they are aware of the duties and powers of the board;

(2) Written, oral or electronic reminders of patient-specific or drug-specific information that are designed to ensure prescriber, pharmacist and beneficiary confidentiality, and suggested changes in the prescribing or dispensing practices designed to improve the quality of care;

(3) The development of an educational program, using data provided through drug utilization review as a part of active and ongoing educational outreach activities to improve prescribing and dispensing practices as provided in this section. These educational outreach activities shall include accurate, balanced and timely information about drugs and their effect on a patient. If the board

contracts with another entity to provide this program, that entity shall publicly disclose any financial interest or benefit that accrues to it from the products selected or used in this program;

(4) Use of face-to-face discussion between experts in drug therapy and the prescriber or pharmacist who has been designated by the board for educational intervention;

(5) Intensified reviews or monitoring of selected prescribers or pharmacists;

(6) The timely evaluation of interventions to determine whether the interventions have improved the quality of care; and

(7) The review of case profiles prior to the conducting of an intervention.

3. Section 3 of P.L.1993, c.16 (C.30:4D-17.18) is amended to read as follows:

3. The **[**board**]** department shall be responsible for:

a. **[**The adoption of regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to carry out its responsibilities pursuant to this act.**]** Deleted by amendment, P.L. , c. (pending before the Legislature as this bill)

b. The implementation of a **[**Medicaid**]** drug utilization review program, subject to the approval of the Commissioner of Health and Senior Services, to ensure that prescriptions are appropriate, medically necessary, and not likely to result in adverse medical outcomes, including the approval of the provisions of any contractual agreement between the **[**Medicaid**]** State pharmaceutical benefits program and other entities processing and reviewing **[**Medicaid**]** drug claims and profiles for the drug utilization review program.

The program shall include both retrospective and prospective drug utilization review. Retrospective drug utilization review shall include an analysis of drug claims processing data in order to identify patterns of fraud, abuse or gross overuse, and inappropriate or medically unnecessary care, and to assess data on drug use against standards that are based on the compendia and other sources. Prospective drug utilization review shall include a review conducted by the pharmacist at the point of sale.

c. **[**The development and application of the criteria and standards to be used in retrospective and prospective drug utilization review in such a manner as to ensure that the criteria and standards are based on the compendia and are developed with professional input in a consensus fashion with provisions for timely reassessments and revisions as necessary, and with provisions for input by persons acting as consumer advocates. The board shall also consider relevant clinical information provided by interested parties outside of the board and, if appropriate, shall make revisions to the criteria and standards based

upon this information in a timely manner. The drug utilization review standards shall reflect the local practices of physicians, in order to monitor:

(1) therapeutic appropriateness;

(2) overutilization or underutilization;

(3) therapeutic duplication;

(4) drug-disease contraindications;

(5) drug-drug interactions;

(6) incorrect drug dosage or duration of drug treatment; and

(7) clinical drug abuse or misuse.**]** Deleted by amendment, P.L. , c. (pending before the Legislature as this bill)

d. **[**The development, selection, application, and assessment of interventions or remedial strategies for physicians, pharmacists, and recipients that are educational and not punitive in nature to improve the quality of care, including:

(1) Information disseminated to physicians and pharmacists to ensure that physicians and pharmacists are aware of the duties and powers of the board;

(2) Written, oral, or electronic reminders of patient-specific or drug-specific information that are designed to ensure recipient, physician, and pharmacist confidentiality, and suggested changes in the prescribing or dispensing practices designed to improve the quality of care;

(3) The development of an educational program, administered directly by the board or through a contract with another entity, using data provided through drug utilization review as a part of active and ongoing educational outreach activities to improve prescribing and dispensing practices as provided in this act. These educational outreach activities shall include accurate, balanced and timely information about drugs and their effect on a patient. If the board contracts with another entity to provide this program, that entity shall publicly disclose any financial interest or benefit that accrues to it from the products selected or used in this program;

(4) Use of face-to-face discussion between experts in drug therapy and the prescriber or pharmacist who has been designated by the board for educational intervention;

(5) Intensified reviews or monitoring of selected prescribers or pharmacists;

(6) The timely evaluation of interventions to determine if the interventions have improved the quality of care; and

(7) The review of case profiles prior to the conducting of an intervention.**]** Deleted by amendment, P.L. , c. (pending before the Legislature as this bill)

e. The submission of an annual report, which shall be subject to public comment prior to its issuance, to the federal Department of Health and Human Services by December 1 of each year. The annual

report shall also be submitted to the Governor, the Legislature, the New Jersey Pharmaceutical Association and the Medical Society of New Jersey [Medical Society] by December 1 of each year. The report shall include the following information:

(1) An overview of the activities of the board and the drug utilization review program;

(2) Interventions used and their ability to improve the quality of care; however, this information shall not disclose the identities of individual [physicians] prescribers, pharmacists, or [recipients] beneficiaries, but shall specify whether the intervention was a result of underutilization or overutilization of drugs;

(3) The costs of administering the drug utilization review program;

(4) Any cost impact to other areas of the [Medicaid] State pharmaceutical benefits program resulting from the drug utilization review program, such as hospitalization rates or changes in long-term care;

(5) A quantitative assessment of how drug utilization review has improved [Medicaid recipients'] beneficiaries' quality of care;

(6) A review of the total number of prescriptions and medical exception requests reviewed by drug therapeutic class;

(7) An assessment of the impact of the educational program established pursuant to subsection [d. of this section] f. of section 2 of P.L. , c. (C.)(pending before the Legislature as this bill) and interventions on prescribing or dispensing practices, total program costs, quality of care and other pertinent patient patterns; and

(8) Recommendations for improvement of the drug utilization review program.

f. The development of a working agreement between the board and other boards or agencies, including, but not limited to: the Board of Pharmacy of the State of New Jersey and the State Board of Medical Examiners, in order to clarify any overlapping areas of responsibility.

g. The establishment of an appeal process for [physicians or] prescribers, pharmacists and beneficiaries pursuant to [this act] P.L.1993, c.16 (C.30:4D-17.16 et seq.) and section 2 of P.L. , c. (C.)(pending before the Legislature as this bill).

h. The publication and dissemination of medically correct and balanced educational information to [physicians] prescribers and pharmacists to identify and reduce the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care among [physicians] prescribers, pharmacists and [recipients] beneficiaries, including:

(1) potential or actual reactions to drugs;

(2) therapeutic appropriateness;

(3) overutilization or underutilization;

(4) appropriate use of generic drugs;
(5) therapeutic duplication;
(6) drug-disease contraindications;
(7) drug-drug interactions;
(8) incorrect drug dosage or duration of drug treatment;
(9) drug allergy interactions; and
(10) clinical abuse or misuse.

i. The development and publication, with the input of the Board of Pharmacy of the State of New Jersey, of the guidelines to be used by pharmacists, including mail order pharmacies, in their counseling of **[**Medicaid recipients**]** beneficiaries.

j. The adoption and implementation of procedures designed to ensure the confidentiality of any information collected, stored, retrieved, assessed, or analyzed by the board, staff to the board, or contractors to the **[**Medicaid**]** drug utilization review program, that identifies individual **[**physicians**]** prescribers, pharmacists, or **[**Medicaid recipients**]** beneficiaries. The board may have access to identifying information for purposes of carrying out intervention activities, but the identifying information may not be released to anyone other than a member of the board, except that the board may release cumulative nonidentifying information for purposes of legitimate research. The improper release of identifying information in violation of this act may subject that person to criminal or civil penalties.

k. The determination of whether nursing or long-term care facilities under 42 CFR 483.60 are exempt from the provisions of this act.

l. The establishment of a medical exception process by regulation.

m. The provision of such staff and other resources as the board requires.

(cf: P.L.1993, c.16, s.3)

4. (New section) The Commissioner of Human Services, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and subject to the approval of the Commissioner of Health and Senior Services as appropriate, shall adopt rules and regulations to effectuate the purposes of P.L.1993, c.16 (C.30:4D-17.16 et seq.) and section 2 of P.L. , c. (C.)(pending before the Legislature as this bill); except that, notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Human Services, subject to the approval of the Commissioner of Health and Senior Services, may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the commissioner deems necessary to implement the provisions of P.L.1993, c.16 (C.30:4D-17.16 et seq.) and section 2 of P.L. , c. (C.)(pending before the Legislature as this bill), which shall be

effective for a period not to exceed six months and may thereafter be amended, adopted or re-adopted by the Commissioner of Human Services, subject to the approval of the Commissioner of Health and Senior Services, in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

5. There is appropriated $90,000 to the Department of Human Services from the General Fund to effectuate the purposes of this act.

6. Section 2 of P.L.1993, c.16 (C.30:4D-17.17) is repealed.

7. This act shall take effect immediately.

STATEMENT

This bill amends and supplements P.L.1993, c.16 (N.J.S.A.30:4D-17.16 et seq.), the statute which established the Medicaid Drug Utilization Review Board, to create a new 15-member Drug Utilization Review Board which, in addition to the Medicaid program, has review authority with respect to PAAD, the AIDS drug distribution program, and any other State and federally funded pharmaceutical benefits program. The members of the board shall include individuals with expertise in the prescribing of medication to the geriatric and AIDS/HIV populations. As with the current board, appointments to this new board shall be made by the Governor with the advice and consent of the Senate.

In addition, this bill provides that the board shall make recommendations to the Department of Human Services concerning the establishment of criteria for the denial of claims and a medical exception process.

Finally, the bill appropriates $90,000 to the Department of Human Services to enable it to carry out its administrative responsibilities under the bill.

ASSEMBLY, No. 2190

STATE OF NEW JERSEY

208th LEGISLATURE

INTRODUCED JUNE 11, 1998

Sponsored by:
Assemblyman FRANCIS J. BLEE
District 2 (Atlantic)
Assemblywoman CAROL J. MURPHY
District 26 (Essex, Morris and Passaic)

SYNOPSIS

Establishes Drug Utilization Review Board in Department of Human Services for State-funded pharmaceutical benefits programs; appropriates $90,000.

CURRENT VERSION OF TEXT

As introduced.

AN ACT establishing the Drug Utilization Review Board for State pharmaceutical benefits programs, amending and supplementing P.L.1993, c.16, and making an appropriation.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.1993, c.16 (C.30:4D-17.16) is amended to read as follows:

1. As used in this act:

"Beneficiary" means a person participating in a State pharmaceutical benefits program.

"Board" means the **[**Medicaid**]** Drug Utilization Review Board established pursuant to **[**this act**]** section 2 of P.L. , c. (C.)(pending before the Legislature as this bill) in connection with State pharmaceutical benefits programs.

"Compendia" means those resources widely accepted by the medical profession in the efficacious use of drugs which is based on, but not limited to, these sources: the "American Hospital Formulary Services Drug Information," the "U.S. Pharmacopeia-Drug Information," the "American Medical Association Drug Evaluations," and the peer-reviewed medical literature, and information provided from the manufacturers of drug products.

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["Division" means the Division of Medical Assistance and Health Services in**]** "Department" means the Department of Human Services.

"Drug interactions" means the occurrence when two or more drugs taken by a recipient lead to clinically significant toxicity that is characteristic of one or any of the drugs present or that leads to the interference with the effectiveness of one or any of the drugs.

"Drug-disease contraindication" means the occurrence when the therapeutic effect of a drug is adversely altered by the presence of another disease or condition.

"Intervention" means a form of educational communication utilized by the board with a prescriber or pharmacist to inform about or to influence prescribing or dispensing practices.

"Medicaid" means the program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

"Overutilization or underutilization" means the use or non-use of a drug in quantities such that the desired therapeutic goal is not achieved.

"PAAD" means the program of pharmaceutical assistance to the aged and disabled established pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.).

"Prescriber"means a person authorized by the appropriate State professional and occupational licensing board to prescribe medication and devices.

"Prospective drug utilization review" means that part of the drug utilization review program that occurs before the drug is dispensed and is designed to screen for potential drug therapy problems based on knowledge of the patient, the patient's continued drug use and the drug use criteria and standards developed by the board.

"Retrospective drug utilization review" means that part of the drug utilization review program that assesses or measures drug use based on an historical review of drug use data against criteria and standards developed by the board on an ongoing basis with professional input.

"Standards" means the acceptable range of deviation from the criteria that reflects local medical practice and that is tested on the **[**Medicaid recipient**]** beneficiary database.

"State pharmaceutical benefits program" means the following programs: Medicaid, PAAD, the AIDS drug distribution program, and any other State and federally funded pharmaceutical benefits program.

"Therapeutic appropriateness" means drug prescribing and dispensing based on rational drug therapy that is consistent with the criteria and standards developed pursuant to **[**this act**]** P.L.1993, c.16 (C.30:4D-17.16 et seq.) and section 2 of P.L. , c. (C.)(pending before the Legislature as this bill).

"Therapeutic duplication" means the prescribing and dispensing of the same drug or of two or more drugs from the same therapeutic class when overlapping time periods of drug administration are involved and when the prescribing or dispensing is not medically indicated.

(cf: P.L.1993, c.16, s.1)

2. (New section) a. There is established the Drug Utilization Review Board in the department to advise the department on the implementation of a drug utilization review program pursuant to P.L.1993, c.16 (C.30:4D-17.16 et seq.) and this section. The board shall establish a Senior Drug Utilization Review Committee to address the specific prescribing needs of the elderly and an AIDS/HIV Drug Utilization Review Committee to address the specific prescribing needs of persons with AIDS/HIV, in addition to such other committees as it deems necessary. It shall be the responsibility of each committee to evaluate the specific prescribing needs of its beneficiary

population, and to submit recommendations to the board in regard thereto.

The board shall consist of 15 members, including the Commissioners of Human Services and Health and Senior Services or their designees, who shall serve as a nonvoting ex officio members, and 13 public members. The public members shall be appointed by the Governor with the advice and consent of the Senate. The appointments shall be made as follows: six persons licensed and actively engaged in the practice of medicine in this State, including at least two who specialize in geriatric medicine and two who specialize in AIDS/HIV care, one of whom who is a pediatric AIDS/HIV specialist, four of whom shall be appointed upon the recommendation of the Medical Society of New Jersey and two upon the recommendation of the New Jersey Osteopathic Association; one person licensed as a physician in this State who is actively engaged in academic medicine; four persons licensed in and actively practicing or teaching pharmacy in this State, who shall be appointed from a list of pharmacists recommended by the New Jersey Pharmacists Association, the New Jersey Council of Chain Drug Stores, the Garden State Pharmacy Owners, Inc., the New Jersey Society of Hospital Pharmacists, the Academy of Consultant Pharmacists and the College of Pharmacy of Rutgers, the State University; one additional health care professional; and one member to be appointed upon the recommendation of the Pharmaceutical Research and Manufacturers of America.

Each member of the board shall have expertise in the clinically appropriate prescribing and dispensing of outpatient drugs.

b. All appointments to the board shall be made no later than the 60th day after the effective date of this act. The public members shall be appointed for two-year terms and shall serve until a successor is appointed and qualified, and are eligible for reappointment; except that of the public members first appointed, eight shall be appointed for a term of two years and five for a term of one year.

c. Vacancies in the membership of the board shall be filled in the same manner as the original appointments were made but for the unexpired term only. Members of the board shall serve with compensation for the time and expenses incurred in the performance of their duties as board members, as determined by the Commissioners of Human Services and Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting in the Department of the Treasury.

d. The board shall select a chairman from among the public members, who shall serve a one-year term, and a secretary. The chairman may serve consecutive terms. The board shall adopt by-laws. The board shall meet at least quarterly and may meet at other times at

the call of the chairman. The board shall in all respects comply with the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.). No motion to take any action by the board shall be valid except upon the affirmative vote of a majority of the authorized membership of the board.

e. The duties of the board shall include the development and application of the criteria and standards to be used in retrospective and prospective drug utilization review. The criteria and standards shall be based on the compendia and developed with professional input in a consensus fashion. There shall be provisions for timely reassessments and revisions as necessary and provisions for input by persons acting as patient advocates. The drug utilization review standards shall reflect the local practices of prescribers, in order to monitor:

(1) therapeutic appropriateness;

(2) overutilization or underutilization;

(3) therapeutic duplication;

(4) drug-disease contraindications;

(5) drug-drug interactions;

(6) incorrect drug dosage;

(7) duration of drug treatment; and

(8) clinical drug abuse or misuse.

The board shall recommend to the department criteria for denials of claims and establish standards for a medical exception process. The board shall also consider relevant information provided by interested parties outside of the board and, if appropriate, shall make revisions to the criteria and standards in a timely manner based upon this information.

f. The board, with the approval of the department, shall be responsible for the development, selection, application and assessment of interventions or remedial strategies for prescribers, pharmacists and beneficiaries that are educational and not punitive in nature to improve the quality of care, including:

(1) Information disseminated to prescribers and pharmacists to ensure that they are aware of the duties and powers of the board;

(2) Written, oral or electronic reminders of patient-specific or drug-specific information that are designed to ensure prescriber, pharmacist and beneficiary confidentiality, and suggested changes in the prescribing or dispensing practices designed to improve the quality of care;

(3) The development of an educational program, using data provided through drug utilization review as a part of active and ongoing educational outreach activities to improve prescribing and dispensing practices as provided in this section. These educational outreach activities shall include accurate, balanced and timely information about drugs and their effect on a patient. If the board

contracts with another entity to provide this program, that entity shall publicly disclose any financial interest or benefit that accrues to it from the products selected or used in this program;

(4) Use of face-to-face discussion between experts in drug therapy and the prescriber or pharmacist who has been designated by the board for educational intervention;

(5) Intensified reviews or monitoring of selected prescribers or pharmacists;

(6) The timely evaluation of interventions to determine whether the interventions have improved the quality of care; and

(7) The review of case profiles prior to the conducting of an intervention.

3. Section 3 of P.L.1993, c.16 (C.30:4D-17.18) is amended to read as follows:

3. The **[**board**]** department shall be responsible for:

a. **[**The adoption of regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to carry out its responsibilities pursuant to this act.**]** Deleted by amendment, P.L. , c. (pending before the Legislature as this bill)

b. The implementation of a **[**Medicaid**]** drug utilization review program, subject to the approval of the Commissioner of Health and Senior Services, to ensure that prescriptions are appropriate, medically necessary, and not likely to result in adverse medical outcomes, including the approval of the provisions of any contractual agreement between the **[**Medicaid**]** State pharmaceutical benefits program and other entities processing and reviewing **[**Medicaid**]** drug claims and profiles for the drug utilization review program.

The program shall include both retrospective and prospective drug utilization review. Retrospective drug utilization review shall include an analysis of drug claims processing data in order to identify patterns of fraud, abuse or gross overuse, and inappropriate or medically unnecessary care, and to assess data on drug use against standards that are based on the compendia and other sources. Prospective drug utilization review shall include a review conducted by the pharmacist at the point of sale.

c. **[**The development and application of the criteria and standards to be used in retrospective and prospective drug utilization review in such a manner as to ensure that the criteria and standards are based on the compendia and are developed with professional input in a consensus fashion with provisions for timely reassessments and revisions as necessary, and with provisions for input by persons acting as consumer advocates. The board shall also consider relevant clinical information provided by interested parties outside of the board and, if appropriate, shall make revisions to the criteria and standards based

upon this information in a timely manner. The drug utilization review standards shall reflect the local practices of physicians, in order to monitor:

(1) therapeutic appropriateness;

(2) overutilization or underutilization;

(3) therapeutic duplication;

(4) drug-disease contraindications;

(5) drug-drug interactions;

(6) incorrect drug dosage or duration of drug treatment; and

(7) clinical drug abuse or misuse.**]** Deleted by amendment, P.L. , c. (pending before the Legislature as this bill)

d. **[**The development, selection, application, and assessment of interventions or remedial strategies for physicians, pharmacists, and recipients that are educational and not punitive in nature to improve the quality of care, including:

(1) Information disseminated to physicians and pharmacists to ensure that physicians and pharmacists are aware of the duties and powers of the board;

(2) Written, oral, or electronic reminders of patient-specific or drug-specific information that are designed to ensure recipient, physician, and pharmacist confidentiality, and suggested changes in the prescribing or dispensing practices designed to improve the quality of care;

(3) The development of an educational program, administered directly by the board or through a contract with another entity, using data provided through drug utilization review as a part of active and ongoing educational outreach activities to improve prescribing and dispensing practices as provided in this act. These educational outreach activities shall include accurate, balanced and timely information about drugs and their effect on a patient. If the board contracts with another entity to provide this program, that entity shall publicly disclose any financial interest or benefit that accrues to it from the products selected or used in this program;

(4) Use of face-to-face discussion between experts in drug therapy and the prescriber or pharmacist who has been designated by the board for educational intervention;

(5) Intensified reviews or monitoring of selected prescribers or pharmacists;

(6) The timely evaluation of interventions to determine if the interventions have improved the quality of care; and

(7) The review of case profiles prior to the conducting of an intervention.**]** Deleted by amendment, P.L. , c. (pending before the Legislature as this bill)

e. The submission of an annual report, which shall be subject to public comment prior to its issuance, to the federal Department of Health and Human Services by December 1 of each year. The annual

report shall also be submitted to the Governor, the Legislature, the New Jersey Pharmaceutical Association and the Medical Society of New Jersey [Medical Society] by December 1 of each year. The report shall include the following information:

(1) An overview of the activities of the board and the drug utilization review program;

(2) Interventions used and their ability to improve the quality of care; however, this information shall not disclose the identities of individual [physicians] prescribers, pharmacists, or [recipients] beneficiaries, but shall specify whether the intervention was a result of underutilization or overutilization of drugs;

(3) The costs of administering the drug utilization review program;

(4) Any cost impact to other areas of the [Medicaid] State pharmaceutical benefits program resulting from the drug utilization review program, such as hospitalization rates or changes in long-term care;

(5) A quantitative assessment of how drug utilization review has improved [Medicaid recipients'] beneficiaries' quality of care;

(6) A review of the total number of prescriptions and medical exception requests reviewed by drug therapeutic class;

(7) An assessment of the impact of the educational program established pursuant to subsection [d. of this section] f. of section 2 of P.L. , c. (C.)(pending before the Legislature as this bill) and interventions on prescribing or dispensing practices, total program costs, quality of care and other pertinent patient patterns; and

(8) Recommendations for improvement of the drug utilization review program.

f. The development of a working agreement between the board and other boards or agencies, including, but not limited to: the Board of Pharmacy of the State of New Jersey and the State Board of Medical Examiners, in order to clarify any overlapping areas of responsibility.

g. The establishment of an appeal process for [physicians or] prescribers, pharmacists and beneficiaries pursuant to [this act] P.L.1993, c.16 (C.30:4D-17.16 et seq.) and section 2 of P.L. , c. (C.)(pending before the Legislature as this bill).

h. The publication and dissemination of medically correct and balanced educational information to [physicians] prescribers and pharmacists to identify and reduce the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care among [physicians] prescribers, pharmacists and [recipients] beneficiaries, including:

(1) potential or actual reactions to drugs;

(2) therapeutic appropriateness;

(3) overutilization or underutilization;

(4) appropriate use of generic drugs;
(5) therapeutic duplication;
(6) drug-disease contraindications;
(7) drug-drug interactions;
(8) incorrect drug dosage or duration of drug treatment;
(9) drug allergy interactions; and
(10) clinical abuse or misuse.

i. The development and publication, with the input of the Board of Pharmacy of the State of New Jersey, of the guidelines to be used by pharmacists, including mail order pharmacies, in their counseling of **[**Medicaid recipients**]** beneficiaries.

j. The adoption and implementation of procedures designed to ensure the confidentiality of any information collected, stored, retrieved, assessed, or analyzed by the board, staff to the board, or contractors to the **[**Medicaid**]** drug utilization review program, that identifies individual **[**physicians**]** prescribers, pharmacists, or **[**Medicaid recipients**]** beneficiaries. The board may have access to identifying information for purposes of carrying out intervention activities, but the identifying information may not be released to anyone other than a member of the board, except that the board may release cumulative nonidentifying information for purposes of legitimate research. The improper release of identifying information in violation of this act may subject that person to criminal or civil penalties.

k. The determination of whether nursing or long-term care facilities under 42 CFR 483.60 are exempt from the provisions of this act.

l. The establishment of a medical exception process by regulation.

m. The provision of such staff and other resources as the board requires.

(cf: P.L.1993, c.16, s.3)

4. (New section) The Commissioner of Human Services, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and subject to the approval of the Commissioner of Health and Senior Services as appropriate, shall adopt rules and regulations to effectuate the purposes of P.L.1993, c.16 (C.30:4D-17.16 et seq.) and section 2 of P.L. , c. (C.)(pending before the Legislature as this bill); except that, notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Human Services, subject to the approval of the Commissioner of Health and Senior Services, may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the commissioner deems necessary to implement the provisions of P.L.1993, c.16 (C.30:4D-17.16 et seq.) and section 2 of P.L. , c. (C.)(pending before the Legislature as this bill), which shall be

effective for a period not to exceed six months and may thereafter be amended, adopted or re-adopted by the Commissioner of Human Services, subject to the approval of the Commissioner of Health and Senior Services, in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

5. There is appropriated $90,000 to the Department of Human Services from the General Fund to effectuate the purposes of this act.

6. Section 2 of P.L.1993, c.16 (C.30:4D-17.17) is repealed.

7. This act shall take effect immediately.

STATEMENT

This bill amends and supplements P.L.1993, c.16 (N.J.S.A.30:4D-17.16 et seq.), the statute which established the Medicaid Drug Utilization Review Board, to create a new 15-member Drug Utilization Review Board which, in addition to the Medicaid program, has review authority with respect to PAAD, the AIDS drug distribution program, and any other State and federally funded pharmaceutical benefits program. The members of the board shall include individuals with expertise in the prescribing of medication to the geriatric and AIDS/HIV populations. As with the current board, appointments to this new board shall be made by the Governor with the advice and consent of the Senate.

In addition, this bill provides that the board shall make recommendations to the Department of Human Services concerning the establishment of criteria for the denial of claims and a medical exception process.

Finally, the bill appropriates $90,000 to the Department of Human Services to enable it to carry out its administrative responsibilities under the bill.

ASSEMBLY SENIORS ISSUES AND COMMUNITY SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2190

STATE OF NEW JERSEY

DATED: JUNE 15, 1998

The Assembly Seniors Issues and Community Services Committee favorably reports Assembly Bill No. 2190.

This bill amends and supplements P.L.1993, c.316 (N.J.S.A.30:4D-17.16 et seq.), the statute which established the Medicaid Drug Utilization Review Board, to create a new 15-member Drug Utilization Review Board which, in addition to the Medicaid program, has review authority with respect to PAAD, the AIDS drug distribution program, and any other State and federally funded pharmaceutical benefits program. The members of the board shall include individuals with expertise in the prescribing of medication to the geriatric and AIDS/HIV populations. As with the current board, appointments to this new board shall be made by the Governor with the advice and consent of the Senate.

In addition, this bill provides that the board shall make recommendations to the Department of Human Services concerning the establishment of criteria for the denial of claims and a medical exception process.

Finally, the bill appropriates $90,000 to the Department of Human Services to enable it to carry out its administrative responsibilities under the bill.

Office of the Governor
NEWS RELEASE

PO BOX 004
TRENTON, NJ 08625

CONTACT: Jayne O'Connor
Julie Plocinik
609-777-2600

RELEASE: June 30, 1998

Gov. Christie Whitman today signed the following legislation:

S-2001, sponsored by Senator Robert Littell (R- Sussex/Hunterdon/Morris) and Assembly Members Richard Bagger (R- Middlesex/Morris/Somerset/Union) and Joseph Charles (D-Hudson), makes various FY 1998 supplemental appropriations totaling $105,403,932 in state funds and $579,254 in federal funds and appropriates $15 million in bond funds. Projects funded through this bill include: $400,000 for the purchase of protective vests for law enforcement, $750,000 to support a toll free telephone system for dealing with the Division of Motor Vehicles services, $285,000 for computer equipment to run criminal history background checks on school employees, and $15 million in property tax relief aid to the City of Camden and the creation of a financial oversight board for the city, and $15 million for sewer overflow abatement projects for the Passaic River/Newark Bay Restoration Program.

A-2141, sponsored by Assembly Member Francis Blee (R-Atlantic) and Senators Louis Bassano (R-Essex/Union and Leonard Connors (R-Atlantic/Burlington/Ocean), establishes an annual assessment of 5.8 percent of gross revenue on all intermediate care facilities for the mentally retarded. The revenue generated by the assessment will be used to reduce the Developmental Disabilities waiting list for placement in community residences.

A-673, sponsored by Assembly Members Jack Gibson and Nicholas Asselta and Senator James Cafiero (all R-Cape May/Atlantic/Cumberland), authorizes municipalities to regulate skateboards and roller skates upon roadways and public properties under their jurisdiction. This law supplements legislation signed January 19, requiring helmets for skaters under 14 years of, by ensuring that municipalities have the ability to regulate skating activities to protect skaters, motorists and other pedestrians in their communities.

A-553, sponsored by Assembly Members David Russo (R- Bergen/Passaic) and Gerald Zecker (R-Essex/Passaic) and Senators Jack Sinagra (R-Middlesex) and John Adler (D-Camden), prohibits smoking in child care centers when children are present.

A-1902, sponsored by Assembly Member Richard Bagger (R-Middlesex/ Morris/Somerset/Union) and Louis Romano (D-Hudson) and Senator Robert Littell (R-Sussex/Hunterdon/Morris), authorizes the State Treasurer to determine the salary of the Director and Deputy Director of the Division of Investment and authorizes the Treasurer to designate an additional deputy director.

S-851, sponsored by Senators Joseph Palaia (R-Monmouth) and Norman M.

Robertson (R-Essex/Passaic) and Assembly Member Christopher "Kip" Bateman (R-Morris/Somerset), revises statutes providing for criminal history record checks of school employees and school bus drivers. The bill expands the list of disqualifying crimes; deletes a provision authorizing the employment of a persons with a disqualifying crime if rehabilitation has been demonstrated and prohibits schools from provisionally hiring candidates pending completion of their criminal history record checks, except in limited circumstances.

A-1996, gives the state Treasurer the authority to bundle old, difficult to collect tax debt represented as tax certificates and enter into a contract with a financial institution after public bidding. The financial institution would assume ownership of the debt and replace the state as the collector. The bill was sponsored by Assembly Members Paul DiGaetano (R- Bergen/Essex/Passaic) and Richard Bagger (R-Middlesex/Morris /Somerset/Union) and Senators Walter Kavanaugh (R-Morris/Somerset) and Peter Inverso (R-Mercer/Middlesex).

S-1002, which amends the state's Business Employment Incentive Program (BEIP) Act to encourage partnerships and limited liability companies to participate in the BEIP program and locate or expand in New Jersey. Companies that create jobs in New Jersey by either moving to the state or expanding operations are eligible to receive incentive grants which are based upon the income taxes paid by the newly-hired employees. The new legislation amends the law to allow estimated taxes paid by partners to be included in the BEIP calculation, thereby increasing the amount of the BEIP grant for partnerships and limited liability companies and providing them with an incentive to move to New Jersey. The bill was sponsored by Senators Joseph Kyrillos, Jr. (R- Middlesex/Monmouth) and Bernard Kenny, Jr. (D-Hudson) and Assembly Members Steve Corodemus (R-Monmouth) and Joseph Azzolina (R- Middlesex/Monmouth).

A-2190, sponsored by Assembly Members Francis Blee (R-Atlantic) and Carol Murphy (R-Essex/Morris/Passaic), expands the Drug Utilization Review Board in the Department of Human Services for state-funded pharmaceutical benefits programs. The powers of the Board will include review of the Pharmaceutical Assistance to the Aged and Disabled (PAAD) and the AIDS Drug Distribution programs. Membership of the Board shall include individuals with expertise in the prescribing of medication to the geriatric and AIDS populations to address specific needs of these individuals. The bill appropriates $90,000 for establishment of the Review Board.

A- 1690, eliminates the requirement in the current charity care law that the Commissioner of Health and Senior Services (DHSS) seek federal approval to establish a permanent state-wide program for providing hospital charity care services on a managed care basis. The bill permits the Commissioner of Human Services to seek federal approval to establish a demonstration managed charity care program, within a single region or county, for a two-year period in order to test the programmatic and fiscal viability of delivering charity care services by this alternative means. The bill was sponsored by Assembly Members Nicholas Asselta (R-Cape May/Atlantic/Cumberland) and Joseph Doria, Jr. ((D-Hudson) and by Senators John Matheussen (R-Camden/Gloucester) and John Bennett (R-Monmouth).

S-990, sponsored by Senator Louis Bassano (R-Essex/Union) and Bernard Kenny (D-Hudson), establishes the New Jersey Supplementary Food Stamp Program in the Department of Human Services. The legislation, an administration initiative,

extends the availability of food stamps to certain noncitizens covered under E.O. 74, which expires today. The program provides broader coverage than the legislation passed in Congress earlier this month. The bill will also provide coverage for individuals who are considered unemployable under the WorkFirst New Jersey Program and are ineligible for federal Supplemental Security Income benefits.