



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
MARGARET M. O'NEILL BUILDING
410 FEDERAL STREET, SUITE 1
DOVER, DE 19901

VOICE: (302) 739-3620
TTY/TDD: (302) 739-3699
FAX: (302) 739-6704

MEMORANDUM

DATE: March 2, 2010

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Ms. Daniese McMullin-Powell *DMP/1010*
Chairperson
State Council for Persons with Disabilities

RE: S.B. 162 [Pharmacy Fee]

The State Council for Persons with Disabilities (SCPD) has reviewed S.B. 162 which creates an assessment of 2% of gross receipts from any pharmacy in Delaware not participating in the Medicaid program. In addition, it requires all collected funds to be deposited in a special fund dedicated to Medicaid related expenses.

This is ostensibly an attempt to provide an incentive for pharmacies to participate in the Medicaid prescription drug program. In the past, some pharmacies threatened to discontinue participation in the Medicaid program based on low profit margins. This bill would impose an additional gross receipt license fee for a pharmacy refusing to fill Medicaid prescriptions. The additional fee is substantial, i.e., 2% of the aggregate sales of all products sold by the pharmacy. For comparison, the standard license fee for a retailer is 0.720% of the aggregate gross receipts subject to authorized deductions. See Title 30 Del.C. §2905.

SCPD endorses the concept of providing an incentive for pharmacies to participate in the Medicaid drug program. However, Council believes that the bill would be more palatable if the gross receipts license fee was not so high. In addition, the bill would benefit from clarification regarding whether the gross receipts license fee is applicable to the sales of products of an entire store or just the sales by the pharmacy section. Query whether the 2% gross receipt license fee should be applicable to the entire sales of products in a Walmart or Costco which also may have pharmacies.

Thank you for your consideration and please contact SCPD if you have any questions regarding our position or observations on the proposed legislation.

cc: The Honorable Jack A. Markell
Mr. Brian Hartman, Esq.
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council