HOUSE HEALTH AND HUMAN SERVICES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 137

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

AN ACT

RELATING TO OPIOIDS; REQUIRING RETAIL PHARMACIES TO KEEP STOCKS OF CERTAIN TYPES OF DRUGS THAT TREAT OPIOID USE DISORDER; REQUIRING WHOLESALE DRUG DISTRIBUTORS TO REPORT INSTANCES IN WHICH THE DISTRIBUTORS DO NOT FILL ORDERS FOR BUPRENORPHINE MADE BY RETAIL PHARMACIES; REQUIRING REPORTS; PROVIDING PENALTIES; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the New Mexico Drug, Device and Cosmetic Act is enacted to read:

"[NEW MATERIAL] BUPRENORPHINE STOCKING REQUIREMENTS.--

A. At least once every thirty days, a retail pharmacy that stocks controlled substances and is not a community-based pharmacy shall compute the retail pharmacy's minimum daily buprenorphine stocking requirement by determining

the average amount of buprenorphine dispensed to ultimate users per day in the previous thirty days, rounding to the nearest milligram. A retail pharmacy that stocks controlled substances and is not a community-based pharmacy shall maintain a stock of buprenorphine sufficient to satisfy the minimum daily buprenorphine stocking requirement, plus at least three additional prescriptions for buprenorphine, including at least one prescription for buprenorphine that is a buprenorphine monoproduct and one prescription for buprenorphine that is a buprenorphine-naloxone combination product. A retail pharmacy that stocks controlled substances and is a community-based pharmacy shall maintain a stock of buprenorphine that is at least equal to one prescription for buprenorphine. A retail pharmacy that fails to satisfy the stocking requirements of this section is not in violation of this section if the retail pharmacy takes any of the following actions within three days of failing to satisfy the stocking requirements:

(1) ordering a replacement stock of buprenorphine sufficient to satisfy the stocking requirements of this section; or

(2) requesting a wholesale drug distributor to increase the retail pharmacy's allotment of buprenorphine, and:

(a) once the wholesale drug distributor approves the request, ordering a replacement stock of buprenorphine within three days of receiving the approval; or

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(b) the wholesale drug distributor denies the request.

B. A retail pharmacy that is not a community-based pharmacy shall maintain records of the retail pharmacy's minimum daily buprenorphine stocking requirements. Records shall be maintained for a period of at least three years from the date of the record and may be inspected as required by authorized agents of the board.

C. A wholesale drug distributor shall report to the board on a monthly basis, in a form and manner prescribed by the board in consultation with the department of health, each instance in which the wholesale drug distributor:

(1) denied, in whole or in part, an order for buprenorphine submitted by a retail pharmacy;

(2) delayed an order for buprenorphine submitted by a retail pharmacy due to the retail pharmacy's threshold of buprenorphine; or

(3) denied a request by a retail pharmacy to increase the retail pharmacy's threshold of buprenorphine.

D. A report submitted by a wholesale drug distributor pursuant to this subsection shall include:

(1) the name, zip code and New Mexico controlled substance registration number of the retail pharmacy affected;

(2) the date on which the retail pharmacy

submitted the order for buprenorphine or requested an increase to the retail pharmacy's threshold of buprenorphine;

(3) the date on which the wholesale drug distributor denied or delayed the retail pharmacy's order for buprenorphine or denied the requested increase in the retail pharmacy's threshold of buprenorphine;

(4) the reason the wholesale drug distributor denied or delayed the retail pharmacy's order for buprenorphine or denied the requested increase in the retail pharmacy's threshold of buprenorphine; and

(5) any other information required by the board.

E. The board shall submit data gathered pursuant to this section to the department of health. The department of health shall analyze the data and publish a biannual report on access to buprenorphine in retail pharmacies. The report shall include:

(1) information on the frequency with which each wholesale drug distributor:

(a) denied a retail pharmacy's order for buprenorphine;

(b) delayed a retail pharmacy's order for buprenorphine due to the retail pharmacy's threshold of buprenorphine; or

(c) denied a retail pharmacy's requested

increase in the retail pharmacy's threshold of buprenorphine;

(2) aggregated de-identified data on the reasons reported by wholesale drug distributors for denying:

(a) a retail pharmacy's order for buprenorphine; or

(b) a request by a retail pharmacy to increase the retail pharmacy's threshold of buprenorphine;

(3) de-identified information for each retail pharmacy that was affected by a delay or denial of buprenorphine or a denial of a requested increase to the retail pharmacy's threshold of buprenorphine. Information provided pursuant to this paragraph shall include:

(a) the zip code in which the retail pharmacy is located, if disclosure of the zip code would not identify the retail pharmacy;

(b) the health region, established pursuant to Section 24-1-4 NMSA 1978, in which the retail pharmacy is located;

(c) an indication of whether the retail pharmacy is included in the list of community-based pharmacy providers published by the health care authority pursuant to Section 27-2-12.34 NMSA 1978; and

(d) the frequency in which the retail pharmacy was: 1) denied an order of buprenorphine by a wholesale drug distributor; 2) delayed in receiving an order of

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buprenorphine due to the retail pharmacy's threshold for buprenorphine; and 3) denied when requesting an increase in the retail pharmacy's threshold for buprenorphine from a wholesale drug distributor; and

(4) any other information that the department of health deems appropriate.

F. Reports published pursuant to Subsection E of this section shall not include information that could identify individual retail pharmacies and shall comply with state and federal privacy and confidentiality laws, rules and regulations.

G. When the board or the department of health is required by law, including the Inspection of Public Records Act, to disclose information gathered pursuant to this section, the board or the department of health shall redact information gathered pursuant to Subsection C of this section that could identify an individual retail pharmacy.

H. The board may impose the following penalties on retail pharmacies that violate this section:

(1) for a first or second violation, notice of the violation that includes information on the requirements to comply with this section; and

(2) for a third violation or any subsequent violation within a thirty-six-month period following the previous violation, a directed plan of correction to help the

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retail pharmacy remain compliant with the requirements of this section.

I. The board may impose the following penalties on wholesale drug distributors that violate this section:

(1) for a first violation, notice of the violation that includes information on the requirements to comply with this section; and

(2) for a second violation or any subsequent violation within a thirty-six-month period following the previous violation, a fine not to exceed ten thousand dollars ($10,000).

J. A retail pharmacy shall not be penalized for a violation of this section if the violation is solely attributable to the action of a wholesale drug distributor. A retail pharmacy may conclusively establish that a violation of this section is solely attributable to the action of a wholesale drug distributor by demonstrating compliance with Paragraph (1) or (2) of Subsection A of this section.

K. As used in this section:

(1) "buprenorphine" means the drug buprenorphine, including any official, generic or chemical name used to describe buprenorphine prescribed for the treatment of opioid use disorder;

(2) "community-based pharmacy" means a retail pharmacy that is:

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(a) open to the public for prescriptions to be filled, regardless of the facility or practice where the prescription was written; and

(b) not: 1) government-owned; 2) hospital-owned; 3) owned by a corporation that owns hospitals; 4) an extension of a medical practice or special facility; 5) owned by a corporate chain of pharmacies with stores outside of the state; or 6) a mail-order pharmacy;

(3) "minimum daily buprenorphine stocking requirement" means the average number of milligrams of buprenorphine dispensed to ultimate users by a retail pharmacy per day over a thirty-day period, in formulations, dosages and brand names consistent with the prescriptions for buprenorphine dispensed to ultimate users by the retail pharmacy during the thirty-day period;

(4) "prescription for buprenorphine" means sufficient buprenorphine in tablet or film form to provide a patient with twenty-four milligrams per day for two weeks;

(5) "retail pharmacy" means a pharmacy physically located, and licensed to dispense drugs, in the state;

(6) "ultimate user" means a person who lawfully possesses buprenorphine for the person's own use or for the use of a member of the person's household; and

(7) "wholesale drug distributor" means a

person licensed to engage in the wholesale distribution of prescription drugs in the state."

SECTION 2. APPROPRIATION.--One million five hundred thousand dollars ($1,500,000) is appropriated from the general fund to the health care authority for expenditure in fiscal year 2027 to increase medicaid reimbursement rates for buprenorphine prescriptions. Any unexpended balance remaining at the end of fiscal year 2027 shall revert to the general fund.

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is September 1, 2026.

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