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SENATE MEMORIAL 32

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Dede Feldman

A MEMORIAL

REQUESTING A STUDY OF THE NEED FOR REGULATION AND OVERSIGHT OF
PHARMACY BENEFIT MANAGEMENT COMPANIES.

WHEREAS, the cost of prescription drugs continues to be a huge component of the cost of health care in the nation and the state; and

WHEREAS, the cost of prescription drugs in New Mexico is estimated to have been eight hundred four million dollars (\$804,000,000) in 2004; and

WHEREAS, New Mexico state government pays for prescription drugs for more than five hundred thousand people covered through the medicaid program, for those incarcerated in our state prisons and for state employees and retirees; and

WHEREAS, pharmacy benefit managers are private companies that administer and manage the purchase and dispensing of and

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1 reimbursement for prescription drugs for public and private
2 insurance plans; and

3 WHEREAS, many pharmacy benefit managers also own and
4 operate their own mail order pharmacies; and

5 WHEREAS, in the United States, pharmacy benefit managers
6 handle prescription drug benefits for an estimated ninety-five
7 percent of all patients with prescription drug insurance; and

8 WHEREAS, the state is among many entities that rely on the
9 services of pharmacy benefit managers to negotiate discounted
10 prices for prescription drugs, develop formularies of covered
11 drugs, establish and maintain adequate networks of pharmacies
12 and manage utilization of drugs through prior authorization or
13 utilization reviews; and

14 WHEREAS, the extremely complex system of prescription drug
15 pricing involves many different prices, rebates and discounts
16 and involves many different parties in the purchasing and
17 dispensing of the product; and

18 WHEREAS, it is in the best interest of the state to have
19 full knowledge of the pricing structure, negotiated discounts
20 and supplementary payments that pharmacy benefit managers
21 receive from prescription drug manufacturers in order to ensure
22 that the lowest possible prescription price is passed along to
23 beneficiaries; and

24 WHEREAS, it is similarly important for the state to have
25 knowledge that beneficiaries are receiving drugs that are the

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1 most medically appropriate and of the lowest cost; and

2 WHEREAS, pharmacy benefit managers are credited with
3 assisting health insurers and states to achieve savings on
4 prescription drugs; and

5 WHEREAS, disclosure of financial arrangements and
6 conflicts of interest and sharing of data about utilization
7 management is generally covered in contracts between entities
8 and should not be required by state law; and

9 WHEREAS, there are conflicting opinions regarding the
10 impact of requiring price transparency on prescription drug
11 prices; and

12 WHEREAS, the administrative activities of this important
13 industry are largely unregulated, except for regulations
14 governing the operation of pharmacy businesses; and

15 WHEREAS, recent state and federal lawsuits have been filed
16 alleging the possibility of serious conflicts of interest,
17 understated savings from deals with prescription drug
18 manufacturers and the use of information about utilization and
19 prescribing patterns for marketing purposes rather than for
20 benefiting patient health; and

21 WHEREAS, the nature and purpose of regulation is highly
22 controversial, and the outcome of regulation is uncertain;

23 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE
24 OF NEW MEXICO that the New Mexico health policy commission be
25 requested to convene a task force to study the need for

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1 regulation of pharmacy benefit management companies; and

2 BE IT FURTHER RESOLVED that the task force include
3 representation from the human services department, the
4 department of health, the office of the attorney general, the
5 insurance division of the public regulation commission, the
6 risk management division of the general services department,
7 members of statewide organizations representing retail
8 pharmacists and retail chain pharmacies, representatives of the
9 pharmacy benefit manager industry, consumers and others as
10 appropriate; and

11 BE IT FURTHER RESOLVED that the study evaluate the various
12 administrative and corporate structures of pharmacy benefit
13 managers; and

14 BE IT FURTHER RESOLVED that the task force identify and
15 create a graphic representation of the pricing structure of
16 prescription drugs, including the various levels at which
17 rebates, discounts and other incentives are offered; and

18 BE IT FURTHER RESOLVED that the necessity for regulation
19 of pharmacy benefit managers be evaluated; and

20 BE IT FURTHER RESOLVED that the task force study the
21 extent to which pharmacy benefit managers interact with covered
22 individuals and the value and propriety of those interactions;
23 and

24 BE IT FURTHER RESOLVED that the task force evaluate the
25 positive and negative aspects of disclosure of financial and

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1 utilization information; and

2 BE IT FURTHER RESOLVED that the study include a complete
3 listing of the approaches other states have taken in regulating
4 the pharmacy benefit manager business, including the status of
5 current legal actions; and

6 BE IT FURTHER RESOLVED that the findings and
7 recommendations of the study be presented to the interim
8 legislative health and human services committee at its October
9 2005 meeting; and

10 BE IT FURTHER RESOLVED that copies of this memorial be
11 transmitted to the director of the New Mexico health policy
12 commission, the secretaries of human services, health and
13 general services, the chief of staff of the public regulation
14 commission and the attorney general.

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