

LFC Requester:	Alegra Hernandez
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

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(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: March 5, 2025 *Check all that apply:*
Bill Number: SB 122 Original Correction
 Amendment Substitute

Sponsor: Elizabeth "Liz" Stefanics, Joanne J. Ferrary, Martin Hickey
Short Title: Expand Prescription Drug Donation Program
Agency Name and Code Number: Regulation and Licensing Department - 420
Person Writing: Jen Rodriguez
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
N/A	N/A	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
N/A	N/A	N/A	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		100.0*	100.0	200.0	Recurring	Pharmacy Fund

(Parenthesis () Indicate Expenditure Decreases)

*See Fiscal Implications

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Senate Bill 122, as amended by the Senate Health & Public Affairs Committee on March 3, 2025. (SHPAC-SB122). NOTE: Information in this document regarding language amended in SHPAC-SB122 as compared to the original Senate Bill 122 is denoted in **bold and underlined** text, below.)

SHPAC-SB122 expands the Prescription Drug Donation Program, §26-1-3.2 NMSA 1978 (“Program”), to allow greater participation in the donation and redistribution of unused prescription drugs. SHPAC-SB122 does so by redefining the following terms:

1. Donors: Previously, donors were individuals donating unused prescription drugs to a clinic or participating practitioner. Now, any person (including those from other states) can donate to "eligible recipients"—licensed individuals authorized to redistribute prescription drugs.
2. Eligible Recipients: Must register with the Board of Pharmacy to receive and distribute donated drugs. The definition includes licensed practitioners, and other licensed persons. **The definition was amended by the SHPAC to delete licensed health care facilities.**
3. Redistribution: Donated drugs must be unexpired and suitable for the patient’s complete use as prescribed. The Board of Pharmacy oversees the rules for redistribution.
4. Distribution Channels: The expanded rule allows in-state and out-of-state pharmacies experienced in managing donated drugs to distribute them through physical or mail-order pharmacies.
5. Handling Fees: The handling fee for patients changes from a maximum of \$20 to "reasonable costs of participating in the program."

SB122 also requires the Board of Pharmacy to promulgate rules for donation of unused prescription drugs, to allow the newly defined eligible recipients to accept and redistribute donated prescriptions, and to ensure that donated prescription drugs are only redistributed to patients if the drugs will not expire prior to the patient’s ability to completely use the drugs, based on directions. The Board of Pharmacy is also required to maintain and **make available to the public** a current listing of eligible recipients.

SHPAC-SB122 also provides the Board of Pharmacy with the power to conduct inspections of eligible recipients to ensure compliance with the requirements and rules promulgated pursuant to this expansion of the prescription drug donation program.

The **effective date** of the legislation, as amended, is **July 1, 2026.**

FISCAL IMPLICATIONS

*When preparing this analysis, the Regulation and Licensing Department (RLD) consulted the New Mexico Board of Pharmacy (BOP) through the board’s Executive Director in order to obtain input from the BOP regarding any impacts SHPAC-SB122 would have on the operations of the BOP as well as any fiscal impact. The BOP expects a direct fiscal impact to accommodate the substantial rulemaking process that would be necessitated by SHPAC-SB122 (multiple meetings to develop and draft proposed rule language, filing notices, conducting hearings, etc.) and funds for such costs are not included with the current projected budget for the BOP for FY26. Total additional expenditures for BOP operations in relation to these rulemaking activities

would be expected to total twenty-five thousand dollars (\$25,000) in FY26. In addition to those costs, the BOP estimates an additional seventy-five thousand dollars (\$75,000) will be needed in FY26 for modifying the online licensing system to build new registration capabilities that would be required to implement SHPAC-SB122. Beyond the costs of initial implementation in FY26, the BOP believes there will be continued expenses associated with registration and enforcement under the Act. NOTE: The above anticipated costs for SHPAC-SB122 are the same as those for the original SB122.

However, SHPAC-SB122 further allows for inspection of eligible recipients, it does not provide additional financial resources to conduct such inspections. BOP estimates that the cost of these inspections cannot be absorbed in the current budget. With the registration and inspection obligations, an additional State Drug Inspector position will need to be created and staffed. Since the new position will not be dedicated solely to this program, the fiscal impact for SHPAC-SB122 is adjusted accordingly.

SIGNIFICANT ISSUES

A patient, to whom the drug is prescribed, must sign a form in the process of voluntarily receiving the donated prescription drug. Allowing this function to be performed by the patient's duly authorized representative would avoid potential barriers when the patient is unable to directly participate in the process.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

A Board of Pharmacy budget adjustment of \$100,000 for FY26 would be appropriate to offset the additional costs associated with this program, with subsequent adjustments as appropriate for future fiscal years.

§ 61-11-22 exempts licenses practitioners in supplying to their patients any drug. This may lead to challenges in Board enforcement and the inspection of licensed practitioners as eligible recipients within the Program. See Amendments Section below.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS

The Board of Pharmacy continues to recommend the following amendments to SHPAC-SB122:
Page 4, Subsection C, 4, Line 22:

“a form to be signed by the patient or their duly authorized representative specifying:”

Page 7, Subsection F, Line 2: “The exemption of § 61-11-22 does not apply to eligible recipients under this section.”