LFC Requestor: Eric Chenier

2026 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS

Section I: General

Chamber: House
Category: Bill
Number: 137
Type: Substitution

Date (of **THIS** analysis)**:** 02/5/2026
Sponsor(s): Elizabeth "Liz" Thomson
Short Title: STOCKING OF CERTAIN DRUGS IN PHARMACIES

Reviewing Agency: Agency 665 - Department of Health
Analysis Contact Person: Joshua Swatek
Phone Number: (505) 629-9142
e-Mail: Joshua.swatek@doh.nm.gov

Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 26	**FY 27**		
$0	$1,500	Nonrecurring	General Fund (Funds appropriated solely to HCA)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 26	**FY 27**	**FY 28**		
$0	$0	$0	N/A	N/A

*Explain w*hat *type of revenues this bill will generate: surcharges, taxes, fees, patient billing, federal revenues, etc.*

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 26	FY 27	FY 28	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	$0	$127.8	$127.8	$255.6	Recurring	General Fund

House Bill 137 (HB 137) requires pharmacies to collect and report data on availability of specific pharmaceuticals for treatment of opioid use disorder. This data would be reported to the New Mexico Department of Health (NMDOH) for analysis. NMDOH is required to prepare a biannual report. DOH estimates that it would require one full-time Epidemiologist position to gather and analyze data for this reporting requirement. Epidemiologists fall in pay band C10, with current mid-point salary of $44.21 per hour or $91,957 per year. With benefits calculated at 36% and IT costs and other supplies averaging $8,000 per year, the total annual cost is $133,061.

Section III: Relationship to other legislation

Duplicates: None

Conflicts with: None

Companion to: None

Relates to: None

Duplicates/Relates to an Appropriation in the General Appropriation Act: None

Section IV: Narrative

1. BILL SUMMARY

a) Synopsis

The bill proposes to add a new section to the New Mexico Drug, Device, and Cosmetic Act that would create buprenorphine stocking requirements for retail pharmacies. Stocking requirements vary based on whether the pharmacy is a community-based pharmacy or not. Stocking requirements for non-community-based pharmacies require a calculation based on mg of buprenorphine dispensed and requirements for stocking both mono and combination products. Additionally, the bill adds recordkeeping requirements for buprenorphine stocking at non-community-based pharmacies. Stocking requirements for community-based pharmacies require a minimum of one prescription to be on hand. **The bill, as substituted, assures that community based pharmacies are exempt from many of the requirements of larger retail pharmacies.**

Retail pharmacies would not be in violation of the Act if their inventory were to fall below the requirements if they ordered additional stock within three days and requested an

allotment increase. If the request is denied, the pharmacy must maintain records of the denial.

Wholesale distributors shall provide a report to the board of pharmacy monthly, in the form and manner prescribed by the board. This report must include each instance the wholesale drug distributor denied or delayed a requested order or threshold increase for the pharmacy. The wholesale drug distributor report would be required to include: (1) the name, zipcode, and controlled substance registration of the retail pharmacy affected; (2) the date the retail pharmacy submitted the order for buprenorphine or requested an increase to the retail pharmacy's threshold of buprenorphine; (3) the date 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.

The board shall submit data gathered pursuant to this section to the New Mexico Department of Health (NMDOH). NMDOH 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 data reflecting the reasons reported by wholesale drug distributors for denying a retail pharmacy's order for buprenorphine or 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 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

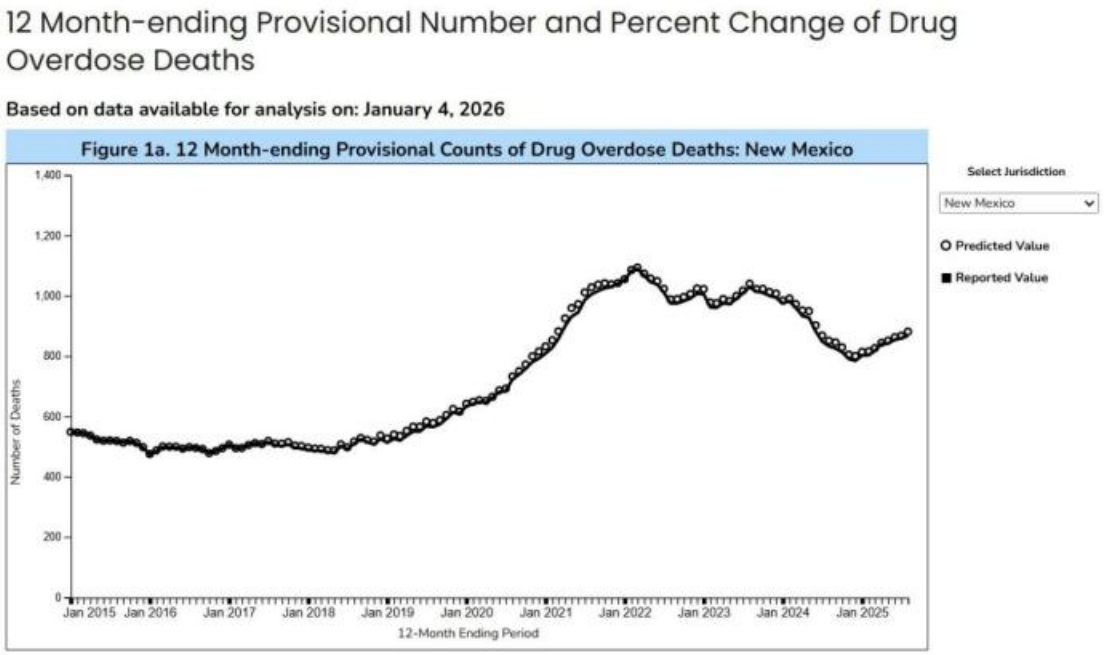
Reports published by NMDOH shall not include information that could identify individual retail pharmacies and shall comply with state and federal privacy and confidentiality laws, rules and regulations. When required by law including the Inspection of Public Records Act, the board or the department of health shall redact information gathered that could identify an individual retail pharmacy

The board of pharmacy may impose penalties but no fines on retail pharmacies for violations. The board of pharmacy may impose penalties and fines on wholesale distributors for violations.

Is there an emergency clause? ☐ Yes ☒ No

b) Significant Issues

In 2024, the total number of drug overdose deaths in New Mexico was 746, with 64% (474 deaths) involving opioids (nmhealth.org/data/view/substance/2889/). This represented a decrease based on previous years. However, based on recent provisional CDC data, the number of overdose deaths in the state has recently begun to increase (see chart).



Adequate access to medication for opioid use disorder (MOUD) remains a key barrier in addressing this. In 2023, opioid overdose-related visits accounted for 72% of all drug overdose-related emergency visits. Despite the need for treatment, many individuals are unable to access the necessary medications. Nationally, only 57.9% of pharmacies reported having buprenorphine/naloxone in stock when requested, with significant variability between states and pharmacy chains. New Mexicans face similar challenges in getting their prescriptions filled (https://sourcenm.com/2023/07/06/addiction-medication-scriptsgoing-unfilled-in-northern-new-mexico/).

Limited access to treatment leads to lost productivity, premature death, and higher healthcare costs due to both acute and chronic illnesses (https://www.samhsa.gov/sites/default/files/cost-benefits-prevention.pdf). Expanding substance use disorder treatment services could yield positive economic benefits, reduce criminal justice costs, and help lower criminal activity (https://www.sciencedirect.com/science/article/pii/S2949875923001352). In 2021, one in fourteen individuals in New Mexico needed treatment, but only one in seven sought treatment due to real or perceived barriers such as stigma, limited availability, and eligibility restrictions.

Federal obstacles to bill implementation and reliable buprenorphine access

There have been significant efforts by the state and healthcare sectors to improve access to behavioral health and SUD treatment, but access to buprenorphine, considered the gold standard for opioid use disorder treatment, has been unreliable. Removing barriers to

buprenorphine and promoting timely access to this medicine has been a stubborn problem that states have had difficulty solving on their own.

Access to buprenorphine is primarily related to the SUPPORT Act, passed by Congress, and several provisions of the Master Settlement Agreement (MSA) for the Opioid Settlement. The SUPPORT Act was passed in an effort to monitor opioid distribution through the establishment of the Suspicious Order Reporting System (SORS), which requires all DEA registrants that distribute controlled substances to report suspicious orders to the DEA.

The relevant DEA regulations do not establish thresholds, nor do they require registrants to set thresholds or limits on controlled substance ordering. The DEA does not exclude medications for treatment of opioid use disorder from the requirements. Buprenorphine occupies a counterintuitive space because, while it shares a classification with opioids at the center of the addiction and overdose crisis, it is the gold standard for treatment and the long-term management of addiction.

The DEA does not have requirements in place to ensure pharmacies are able to receive adequate supplies to fill legitimate prescriptions.

The Master Settlement Agreement (MSA) for the Opioid Settlement imposes additional requirements on wholesale pharmacy distributors to place ordering limits on retail pharmacies. These include the use of data-driven systems to flag orders that exceed established thresholds. Once flagged, these orders are automatically cancelled. The manner of determining medication thresholds is proprietary information. If a pharmacy places an order exceeding its threshold, the distributors may cancel the order and potentially report the order as "suspicious" to state and federal law enforcement. Moreover, the settlement agreement prohibits distributors from informing individual pharmacies of their specific threshold levels, how they are calculated, or when existing orders approach them. This limits a pharmacy's ability to proactively request an increase to its buprenorphine threshold to ensure it can meet local needs. Wholesalers are prohibited from disclosing the algorithms used to determine the thresholds, which would help retail pharmacies avoid overstepping thresholds and triggering cancellations and audits. While the MSA allows for the temporary suspension of these thresholds during declared emergencies—such as the current national emergency related to fentanyl—wholesale distributors have not applied this provision to temporarily lift the thresholds for buprenorphine.

There is currently federal legislative action underway to exempt Buprenorphine from SORS reporting. U.S. Senator Martin Heinrich (D-N.M.) and U.S. Representative Paul Tonko (D-N.Y.) introduced the Broadening Utilization of Proven and Effective Treatment for Recovery Act, or BUPE for Recovery Act, which proposes to increase access to buprenorphine by:

- Requiring the Administrator of the DEA to temporarily exempt buprenorphine from the Suspicious Orders Report System (SORS) for the remainder of the opioid public health emergency; and
- Requiring the U.S. Department of Justice (DOJ) and the U.S. Department of Health and Human Services (HHS) to conduct a thorough assessment at the conclusion of the public health emergency to determine whether buprenorphine needs to be re-included in SORS tracking moving forward.

HB137 would create additional responsibilities for the department of health (NMDOH) regarding data analysis requirements regarding denials for buprenorphine orders from retail pharmacies. New Mexico currently has 282 retail pharmacies. Retail pharmacies routinely reorder medications, sometimes daily, to maintain stock. Without regulations directly impacting wholesale distributor thresholds for buprenorphine or addressing denial of threshold increases, the amount of data related to unfulfilled or denied orders may become too voluminous. While the bill includes language stating that the Board would determine the method for data reporting, close coordination between the Board and NMDOH would be necessary to ensure that data is collected in a format that is readily analyzable and not excessively burdensome.

The bill requires a biennial report from NMDOH detailing the effects of retail pharmacy requests for increased buprenorphine thresholds and the impact on access. The report requires an examination of geographic and demographic disparities in access, and the effects of insufficient access on opioid use disorder treatment initiation and retention, overdose morbidity and mortality, and other health outcomes related to substance use disorder. However, this data would be incomplete as NMDOH would only receive information from wholesale distributors about denials, without data from pharmacies on inventory levels, delays, or unfilled prescriptions. Furthermore, health outcome data related to these issues would require an independent study. The bill does not allocate funds for data analysis or additional studies to fulfill the biennial report's requirements.

The bill mandates only the pharmacy name be included in the report, without specifying the pharmacy's address or zip code. Including this geographic information would significantly improve the analysis of pharmacy order denials and help to identify regional disparities in access to buprenorphine.

Complex calculations for non-community-based retail pharmacies may result in additional administrative burden. Additionally, calculations don't reflect common pharmacy inventory management or reporting capabilities. Pharmacies are more likely to have readily retrievable data regarding dispensing units (film/tablet) per individual product type. Language for community-based retail pharmacies was simplified in the substitute bill and only requires one prescription worth of buprenorphine to be in stock. The updated language doesn't specify if this is per product type (i.e. ingredient combination/strength).

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?

  ☐ Yes ☒ No

  If yes, describe how.

- Is this proposal related to the NMDOH Strategic Plan? ☒ Yes ☐ No

  All New Mexicans deserve equitable access to their medications. There are currently no FDA shortages for buprenorphine (https://dps.fda.gov/drugshortages). Despite this fact many providers and patients have reported trouble accessing buprenorphine due to unavailability at their preferred pharmacy. Reliable access to buprenorphine is key to treatment success in individuals with opioid use disorder. Reliable access would greatly improve their health status. People with opioid use disorder are less likely to overdose when they are in long-term treatment with methadone or buprenorphine than when they are untreated. Treatment using agonist medication is associated with an estimated mortality

reduction of approximately 50 percent among people with opioid use disorder. https://www.ncbi.nlm.nih.gov/books/NBK541393/

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?

  ☐ Yes ☒ No ☐ N/A

- If there is an appropriation, is it included in the LFC Budget Request?

  ☐ Yes ☒ No ☐ N/A

- Does this bill have a fiscal impact on NMDOH? ☒ Yes ☐ No

HB 137 requires pharmacies to collect and report data on availability of specific pharmaceuticals for treatment of opioid use disorder. This data would be analyzed by the Department of Health (DOH). DOH is required to prepare a biannual report. DOH estimates that it would require one full-time Epidemiologist position to gather and analyze data for this reporting requirement. Epidemiologists pay band C10, with current mid-point salary of $44.21 per hour or $91,960 per year. With benefits calculated at 39%, the total annual cost is $127,824. The legislation does not create such a position or provide any funding to the department, as the appropriation will be to the Health Care Authority.

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? ☐ Yes ☒ No

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

None.

6. TECHNICAL ISSUES

Are there technical issues with the bill? ☐ Yes ☒ No

7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written? ☐ Yes ☒ No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? ☐ Yes ☒ No
- Does this bill conflict with federal grant requirements or associated regulations? ☐ Yes ☒ No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? ☐ Yes ☒ No

8. DISPARITIES ISSUES

While NMDOH data does not highlight strong correlation between ethnicity and rate of death from overdose (NM-IBIS - Health Indicator Report - Deaths due to Drug Overdose by County and Race/Ethnicity, New Mexico, 2017-2021), access to treatment is often more difficult for rural New Mexicans because of scarcity of pharmacies stocking buprenorphine. Consequently, this bill could address rural/urban disparities in access to treatment for substance use disorder.

9. HEALTH IMPACT(S)

People with opioid use disorder are less likely to overdose when they are in long-term treatment with methadone or buprenorphine than when they are untreated. Treatment using agonist medication is associated with an estimated mortality reduction of approximately 50 percent among people with opioid use disorder. (https://www.ncbi.nlm.nih.gov/books/NBK541393/)

10. ALTERNATIVES

Other mechanisms to accomplish what the bill proposes would include new federal legislation to amend the SUPPORT Act or working through the Attorney General to address barriers presented in the master settlement between wholesalers/distributors, and pharmacies.

11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

If HB137 is not enacted, then stocking and reporting requirements will not be enacted for retail pharmacies and wholesale distributors. Additionally, the Board of Pharmacy would not be required to collect this data. NMDOH would not be required to analyze the data and complete a biennial report.

12. AMENDMENTS

Language for community-based retail pharmacies was simplified in the substitute bill and only requires one prescription worth of buprenorphine to be in stock. The updated language doesn't specify if this is per product type (i.e. ingredient combination/strength/dosage form). Consider amending language to help clarify intent.