

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

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1 the average amount of buprenorphine dispensed to ultimate users  
2 per day in the previous thirty days, rounding to the nearest  
3 milligram. A retail pharmacy that stocks controlled substances  
4 and is not a community-based pharmacy shall maintain a stock of  
5 buprenorphine sufficient to satisfy the minimum daily  
6 buprenorphine stocking requirement, plus at least three  
7 additional prescriptions for buprenorphine, including at least  
8 one prescription for buprenorphine that is a buprenorphine  
9 monoprodut and one prescription for buprenorphine that is a  
10 buprenorphine-naloxone combination product. A retail pharmacy  
11 that stocks controlled substances and is a community-based  
12 pharmacy shall maintain a stock of buprenorphine that is at  
13 least equal to one prescription for buprenorphine. A retail  
14 pharmacy that fails to satisfy the stocking requirements of  
15 this section is not in violation of this section if the retail  
16 pharmacy takes any of the following actions within three days  
17 of failing to satisfy the stocking requirements:

- 18 (1) ordering a replacement stock of  
19 buprenorphine sufficient to satisfy the stocking requirements  
20 of this section; or
- 21 (2) requesting a wholesale drug distributor to  
22 increase the retail pharmacy's allotment of buprenorphine, and:
  - 23 (a) once the wholesale drug distributor  
24 approves the request, ordering a replacement stock of  
25 buprenorphine within three days of receiving the approval; or

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1 (b) the wholesale drug distributor  
2 denies the request.

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

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

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

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

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

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

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

25 (2) the date on which the retail pharmacy

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

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

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

11 (5) any other information required by the  
12 board.

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

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

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

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

25 (c) denied a retail pharmacy's requested

1 increase in the retail pharmacy's threshold of buprenorphine;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 retail pharmacy remain compliant with the requirements of this  
2 section.

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

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

8 (2) for a second violation or any subsequent  
9 violation within a thirty-six-month period following the  
10 previous violation, a fine not to exceed ten thousand dollars  
11 (\$10,000).

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

19 K. As used in this section:

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

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

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

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

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

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

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

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

25 (7) "wholesale drug distributor" means a

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

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

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