

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

SPONSOR Swisstack DATE TYPED 03/11/05 HB 613/aHJC

SHORT TITLE Allow Emergency Prescriptive Dispensing SB \_\_\_\_\_

ANALYST McSherry

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
		NFI	Minimal	Recurring	Board of Pharmacy

(Parenthesis ( ) Indicate Expenditure Decreases)

HB 613 relates to SB 413 which proposes to amend the Drug, Device and Cosmetic Act, expand powers under the Board of Pharmacy, and change certain definitions in the Controlled Substances Act.

### SOURCES OF INFORMATION

LFC Files  
 Regulations and Licensing Department  
 New Mexico Health Policy Commission  
 Department of Health

### SUMMARY

#### Synopsis of Amendment

House Judiciary Amendment to House Bill 613 provides that the Pharmacy Board adopt emergency prescription dispensing rules, but that, unlike provided for in the original bill, the board would not adopt emergency prescription dispensing rules for the director.

#### Synopsis of Original Bill

House Bill 613 proposes to amend the Pharmacy Act, Section 61-11-1 NMSA 1978, to give authority for emergency prescriptive dispensing during civil or public health emergencies. HB 613 proposes definitions for “director” and “emergency prescriptive dispensing.” The proposed changes would allow the Board of Pharmacy the authority to adopt rules and regulations for pharmacy owners and pharmacists to provide “emergency prescriptive dispensing” and would authorize emergency prescription dispensing in order to expedite the response to an emergency.

Significant Issues

The Pharmacy Act regulates the dispensing of prescription drugs. HB 613 would allow the board of pharmacy to create a waiver of standard regulations affecting dispensing in the event of a civil or public health emergency, when the failure to dispense or refill would result in an interruption of a therapeutic regimen.

The Regulations and Licensing Department (RLD) reports that two public health emergencies have occurred in the last few years where patients did not have access to their normal health care provider or pharmacy: fires in western Arizona and in Los Alamos. The Board asserts that it needs the authority to allow the emergency refilling of medications licensed practitioners have already prescribed for their patients.

The amendment will protect persons from harm or suffering who may be affected by a declared public health emergency and might need immediate or continued access to their prescribed medications or therapeutic regime by allowing a pharmacist to prescribe.

**PERFORMANCE IMPLICATIONS**

The Department of Health (DOH) reports that HB 613 relates to the DOH Strategic Plan in Program Area 3: Epidemiology & Response, Objective 1: Improve the capacity of the state to respond to health emergencies.

**FISCAL IMPLICATIONS**

There are no known fiscal implications related to HB 613.

**ADMINISTRATIVE IMPLICATIONS**

Should HB 613 pass, the Board of Pharmacy would have to adopt associated regulations. DOH emergency plans, asserts the Department, could also need to be revised to incorporate the Bill's provisions. DOH reports that the revision of plans could be accomplished with current staff.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB 613 relates to SB 413 which proposes to amend the Drug, Device and Cosmetic Act, expand powers under the Board of Pharmacy, and change certain definitions in the Controlled Substances Act.

**TECHNICAL ISSUES**

DOH suggests that Section 2.A.20, page 12, Line 9, "...by the director" should be corrected. Current language implies that the dispensing of emergency prescriptions will be done by the director.

**OTHER SUBSTANTIVE ISSUES**

According to the definition of "emergency prescription dispensing" as stated in HB 613, the emergency dispensing would be able to occur only if the Governor declares a civil or public

health emergency or if an adjoining state's Governor makes an emergency declaration. Emergency prescription dispensing would also occur as otherwise authorized by state or federal law.

DOH reports that the need for this legislation was evident during the Cerro Grande Fire in May, 2000, when the cities of White Rock and Los Alamos were evacuated and many of the evacuees were unable to complete the necessary steps to refill their prescriptions for essential medications. The department further asserts that when Arizona experienced evacuations due to wildfires in the summer of 2003, some of their citizens traveled to Gallup to have their prescriptions refilled.

According to the Regulations and Licensing Department (RLD), HB 613 is an outgrowth of the 2002 Senate Joint Memorial 64 and House Joint Memorial 32 which requested a study of the State's emergency preparedness laws to be conducted by DOH, Department of Public Safety, and the Attorney General's Office. RLD reports that the Board of Pharmacy adopted this proposal at its October 1, 2002 meeting and continues to endorse this proposed legislation.

The New Mexico Health Policy Commission (NMHPC) points out that prescription drugs for controlling blood pressure, diabetes, and other chronic illnesses are critical for the wellbeing of those who must take them daily.

States have been preparing for potential bio-terrorism threats and other disasters that will impact their residents. Providing pharmacists with authority to prescribe prescription drugs emergently serves as one way to protect residents according to NMHPC. The Commission states that the proposed changes, by adhering only to government declared emergencies, which are short-term situations, local communities would benefit and the changes would not infringe on prescriptive authorities otherwise given to medical doctors during non-emergency times.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?**

During declared emergencies the people of New Mexico and adjoining states may be unable to access essential prescription medications through emergency prescriptive dispensing.

The New Mexico Health Policy Commission reports that people taking critical medications may decline in their health or possibly even die should this bill not be enacted.

**EM/lg:rs**