

LFC Requester:	Eric Chenier
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@DFA.NM.GOV

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

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

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date January 31, 2024
Bill No: HB 299

Sponsor: Jennifer Jones and Cathrynn Brown and Eleanor Chavez and Elizabeth "Liz" Thomson
Short Title: Controlled substances used for withdrawal management

Agency Name and Code Regulation and Licensing - 420
Number: _____
Person Writing Cheranne McCracken
Phone: 505-222-9841 **Email** Cheranne.mccracken@rld.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
0	0	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
0	0	0	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	N/A	N/A	N/A	N/A		

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 299 (HB 299)

Amends the Pharmacy Act to authorize a licensed custodial care facility that is authorized to provide medically monitored withdrawal management and has onsite nursing staff 24/7/365 to acquire, stock, maintain, and have in the facility’s possession powerful (and potentially dangerous) drugs, including controlled substances to be used for withdrawal management purposes.

FISCAL IMPLICATIONS

SIGNIFICANT ISSUES

“Controlled substance” is defined to include Schedules I through V. Schedule I controlled substances are those with high potential for abuse and have no accepted medical use in treatment in the United States or lack accepted safety for use in treatment under medical supervision.

The Board of Pharmacy, at 16.19.11.8 (A) (9) NMAC, allows a licensed custodial care facility with a 24/7/365 on-site nurse to have emergency drug supplies which may include controlled substances. Custodial facilities may also possess/stock controlled substances on-site in an automated drug distribution system (ADDS), which can be used for routine dosing if it has a DEA registration, as required by federal law (see 16.19.6.27 NMAC).

The emergency drug supply and ADDS is the property of a pharmacy. This creates an additional layer of accountability and protection against dangerous drug and controlled substance diversion.

For a custodial facility to obtain controlled substances, it would have to have a state and federal (DEA) controlled substance registration.

There is not an applicable federal exception that allows a DEA registrant to take possession of a controlled substance from a non-registrant in a custodial facility setting. This will create issues with a custodial facility that has patient-specific controlled substances in its control.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Custodial facilities can continue to possess controlled substances in emergency drug supplies, and in ADDS for routine dosing.

AMENDMENTS

Please consider amending definition of controlled substance to read “Schedules II through V” [removing Schedule I drugs].

The provision “pursuant to board rule” is needed, so that the Board of Pharmacy may promulgate rules for controlled substance procurement, records, storage, access, etc. for these facilities. This language should be added to Section 1, subsection A of the bill at the end of the sentence. [See page 2, line 1 of the bill, inserting “pursuant to board rule” just after the word “purposes” and before the period.]