

LFC Requester:

Esquibel, RubyAnn

AGENCY BILL ANALYSIS  
2024 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

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**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 24, 2024

Bill No: SB0034

Sponsor: Ortiz y Pino Agency Name and Code Number: Aging and Long – Term Services Department – 62400

EXPANSION OF  
PRESCRIPTION DRUG  
DONATION PROGRAM

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
NFI	NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	NFI	NFI	NFI			

(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: This bill aims to expand the Prescription Drug Donation Program to allow greater participation in the donation and redistribution of unused prescription drugs.

In SB34, the definition of “donor” is expanded to clarify a person who donates unused prescription drugs to an “eligible recipient”, specifically, a person licensed to receive and distribute prescription drugs, a licensed health care facility, or a practitioner licensed to prescribe prescription drugs for redistribution to patients. To participate in the collection of donated prescription drugs, “eligible recipients” must register with the Board of Pharmacy.

Additionally, SB34 specifies that any person, including persons from other states, may donate unexpired, unused prescription drugs to an “eligible recipient,” and an eligible recipient may accept and redistribute the donated prescription drugs in accord with rules adopted by the Pharmacy Board. Further, donated prescription drugs shall only be redistributed to a patient if the drugs will not expire before the patient is able to complete the course of the medication, based on the directions for use given by the patient’s prescribing health care professional.

The handling fee that may be charged to a patient is changed from a maximum not to exceed \$20 for “reasonable costs of participating in the collection of donated prescription drugs.”

**FISCAL IMPLICATIONS**

SB34 impacts the service population of the Aging and Long-Term Services Department (ALTSD), however, there are no fiscal implications for ALTSD. Benefits directly impact prescribers and prescription drug recipients, but not the department itself.

**SIGNIFICANT ISSUES**

Older adults and adults with disabilities are the largest consumers of prescription drugs. Among U.S. adults aged 40–79 years, 69% used one or more prescription drugs in the past 30 days and 22% used five or more.<sup>1</sup>

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<sup>1</sup>Hales CM, Servais J, Martin CB, Kohen D. Prescription drug use among adults aged 40–79 in the United States and Canada. NCHS Data Brief, no 347. Hyattsville, MD: National Center for Health Statistics. 2019.

Among those currently taking prescription drugs, 23% of seniors report it is difficult to afford their prescription drugs.<sup>2</sup> Greater out-of-pocket costs for consumers are associated with decreased adherence to medication, ultimately contributing to increased, downstream healthcare costs. In 2022, approximately 20% of those 65 years and older practiced cost-related medication nonadherence, meaning they intentionally missed doses, decided not to fill or delayed filling a prescription, took less medication, or used someone else's medication(s).<sup>3</sup>

Exacerbating the problem of drug affordability, in the U.S., unused medication worth billions of dollars are disposed of each year. A case in point, one study quantified unused medication worth \$10 million could be recycled from long-term care (LTC) facilities.<sup>4</sup> Medication in LTC facilities becomes unused due to a patient's: medication dosage change, improvement in health, a change in care settings, or mortality.

New Mexico is one of 28 states with existing laws and operational prescription drug donation and reuse programs (as of November 2023).<sup>5</sup> New Mexico's current law permits patients to donate medications to the original prescriber; the original intent of our state's law (see 2011 SB 37, Feldman) was to control primarily illicit use of prescription opioids by those with another's prescription. However, New Mexico's existing law makes it difficult for medications to be re-dispensed to those who most need them. Consequently, 2024 SB34 broadens the scope of the law to create the definition of "eligible recipient" as well as expanding the definition of who is eligible to receive donated prescriptions.

ALTSD's Prescription Drug Assistance (PDA) program is responsible for researching financial assistance and relief for uninsured or underinsured older adults and people with disabilities. Participants of ALTSD's PDA program often find themselves in a crisis due to a new prescription they didn't realize was prohibitively expensive until they attempt to fill the prescription at the pharmacy. By collecting unused prescription drugs and redistributing them to qualifying individuals (PDA participants, for example), New Mexico's prescription drug donation and reuse program may increase medication access to underserved populations.

Aging and disabled New Mexicans face disproportionately greater costs of prescription medications. Senate Bill 34 may significantly impact many New Mexicans who are not able to afford medication costs and don't qualify for relief through pharmaceutical companies' patient assistance programs.

## PERFORMANCE IMPLICATIONS

None currently identified.

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<sup>2</sup>Kaiser Family Foundation Health Tracking Poll, 2019 <https://www.kff.org/health-costs/poll-finding/kff-health-tracking-poll-february-2019-prescription-drugs/>

<sup>3</sup>Dusetzina SB, Besaw RJ, Whitmore CC, *et al.* 2023. Cost-Related Medication Nonadherence and Desire for Medication Cost Information Among Adults Aged 65 Years and Older in the US in 2022. *JAMA Netw Open.* 6(5):e2314211. doi:10.1001/jamanetworkopen.2023.14211

<sup>4</sup>Lenzer J. US could recycle 10 million unused prescription drugs a year, report says *BMJ* 2014; 349 :g7677 doi:10.1136/bmj.g7677

<sup>5</sup>National Conference of State Legislatures <https://www.ncsl.org/health/state-prescription-drug-repository-programs>

## **ADMINISTRATIVE IMPLICATIONS**

Should SB 34 be enacted, ALTSD may pursue outreach to inform its consumers of the changes and subsequent benefits provided under SB 34. The administrative impact should be minimal.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None currently identified.

## **TECHNICAL ISSUES**

None currently identified.

## **OTHER SUBSTANTIVE ISSUES**

Other U.S. states have implemented tax-deductible donations (under certain conditions) as an incentive to increase prescription drug donations.

## **ALTERNATIVES**

None currently identified.

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

By not enacting this bill, the Prescription Drug Donation Program would not expand to allow greater participation in the (interstate) donation and redistribution of unused prescription drugs in New Mexico. Subsequently, the largest prescription drug consumers and those most in need of care – namely, older adults and adults with disabilities – would not receive the benefit of prescription drug recycling.

## **AMENDMENTS**

None currently identified.