

<b>LFC Requester:</b>	<b>Clark, Jon</b>
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**AGENCY BILL ANALYSIS  
2014 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**LFC@NMLEGIS.GOV**

*And*

**DFA@STATE.NM.US**

*{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** February 17, 2014

**Bill No:** HB126-305 Feb 17

**Sponsor:** Rep. Nora Espinoza

**Reviewing** Attorney General's Office

**Short** PHARMACY BENEFIT

**Person Writing** Andrea Buzzard, Jennifer Salazar

**Title:** MANAGER ACT

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**SECTION II: FISCAL IMPACT \*\*\*\*FOR LFC OFFICIAL PURPOSES\*\*\*\***  
**AGO STAFF SHOULD LEAVE SHADED AREAS BLANK**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY14	FY15		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to

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

	<b>FY14</b>	<b>FY15</b>	<b>FY16</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

**SECTION III: NARRATIVE**

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Opinion Letter. This is a staff analysis in response to the agency’s, committee’s or legislator’s request.

**BILL SUMMARY**

Summary Synopsis:

The House Judiciary Committee’s proposed substitute for HB 126 would amend the New Mexico Insurance Code to enact the “Pharmacy Benefits Manager Regulation Act” (hereinafter “Act”). The proposed Bill contains seven sections.

As defined by the Act, “pharmacy benefit management services” are those “services provided to a health benefit plan or health insurer, directly or through another person” and includes mail service pharmacies as well as “claims processing, retail network management or payment of claims to pharmacies for dispensing dangerous drugs.” A “pharmacy benefit manager” is a person who provides claims administration, benefit design, management, pharmacy network management, negotiation, and administration of product discounts, rebates and other benefits. See, Section 2.

Section 3 of the Bill would require all pharmacy benefits managers to be licensed by the Office of the Superintendent of Insurance. In addition, Section 3 outlines the requirements for licensure and gives the Superintendent of Insurance authority to suspend or revoke a license issued to a “pharmacy benefits manager” for the causes listed under subsection C of Section 3. Furthermore, under subsection E, a pharmacy benefits manager whose license has been denied, suspended, or revoked, may seek review pursuant to the provisions of Chapter 59A, Article 4 NMSA 1978.

Section 4 would require a pharmacy benefits manager using “maximum allowable cost pricing” to follow certain criteria in placing a drug on a maximum allowable cost list as well as for reviewing and updating the maximum allowable cost pricing information. Pharmacy benefits managers will also be required to establish a process for eliminating products from a maximum allowable cost pricing list. The term “maximum allowable cost” is defined in Section 4 as the “maximum amount that a pharmacy benefits manager will reimburse a pharmacy for the cost of a drug.” Furthermore, Section 4 would require pharmacy benefits managers to provide a procedure under which a network pharmacy provider may challenge a listed maximum allowable cost price for a drug.

Section 5 outlines the requirements for pharmacy benefits manager contracts between pharmacies and the pharmacy benefits manager. Under Section 6, a pharmacy benefits manager would be subject to the audit requirements under Section 61-11-18.2 of the Pharmacy Act.

Finally, Section 7 would amend Section 59A-6-1 of the Insurance Code to set forth the fees to be imposed upon, and collected from, a pharmacy benefits manager.

**FISCAL IMPLICATIONS WITH ENACTING THIS BILL**

None for the AGO.

**SIGNIFICANT LEGAL ISSUES**

None.

**PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL**

None for the AGO.

**ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL**

None for the AGO.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION**

None noted.

**TECHNICAL ISSUES OR DRAFTING ERROR**

The term “pharmacy benefits management” is defined in Section 2 as the “service provided to a health benefit plan or health insurer[.]” The Act does not, however, define the terms “health benefit plan” or “health insurer”; instead, those terms are included in the definition of “covered entity.” It would provide some clarification if these terms were either defined, or, or replaced with the term “covered entity.”

**OTHER SUBSTANTIVE LEGAL ISSUES**

None.

**ALTERNATIVES TO ENACTING THIS BILL**

None.

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

Status quo.

**AMENDMENTS NEEDED TO IMPROVE THIS BILL**

None.