

**LFC Requester:**

Eric Chenier

**AGENCY BILL ANALYSIS  
2025 REGULAR SESSION**

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

**Analysis.nmlegis.gov**

*{Analysis must be uploaded as a PDF}*

**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 30, 2025

**Bill No:** HB 171

**Sponsor:** Jenifer Jones  
Elizabeth "Liz" Thomson  
Cathrynn N. Brown  
**Short Title:** Pharmacy Custodial Care  
Facilities

**Agency Name and Code Number:**

Regulation and Licensing  
Department - 420

**Person Writing**

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

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

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
N/A	N/A	N/A	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		70.0		70.0	Nonrecurring	Pharmacy Fund

(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 171 (HB171)

HB171 adds a new section to the Pharmacy Act, §§61-11-1 to -30 NMSA 1978, to permit a licensed custodial care facility that is authorized to provide medically monitored withdrawal management that is under the supervision of a consulting pharmacist and has onsite nursing staff 24 hours per day, 365 days per year, to acquire, stock, maintain and have in the facility's possession dangerous drugs, including controlled substances to be used for withdrawal management purposes.

The effective date of the legislation is June 20, 2025

#### **FISCAL IMPLICATIONS**

The NM Board of Pharmacy (BOP) is administratively attached to the Regulation and Licensing Department (RLD) when preparing this Fiscal Impact Response the RLD contacted the BOP to obtain the BOP's input. The BOP expects a direct fiscal impact related to the rulemaking process (meetings to develop and draft proposed rule language, filing notices, conducting hearings, etc.) of approximately \$5,000, and additional expenditures of approximately \$60,000 to modify the online licensing system for controlled substance registration capabilities for the new custodial facility subtype. Additionally, \$5,000 is anticipated for staff efforts related to licensing database modification, testing, and implementation.

#### **SIGNIFICANT ISSUES:**

The BOP, 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 stock controlled substances on-site in an automated drug distribution system (ADDS), which can be used for routine dosing if it has a Drug Enforcement Administration (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. Additional protections include pharmacist drug utilization review and ensuring that the drug is administered only pursuant to prescription.

For a custodial facility to obtain controlled substances, it must 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.

Modification of the online licensing system and rules will take many months. The BOP requests a delayed implementation date of June 30, 2026.

Insurers do not pay custodial facilities for drugs. Until such time as this is changed, patients may be charged for drugs their insurance would otherwise cover, or the custodial facility may go unreimbursed.

**PERFORMANCE IMPLICATIONS:**

**ADMINISTRATIVE IMPLICATIONS:**

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

**TECHNICAL ISSUES:**

**OTHER SUBSTANTIVE ISSUES:**

**ALTERNATIVES**

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

**AMENDMENTS**

Specify that the custodial facility may obtain dangerous drugs and controlled substances in accordance with Board rules.

Specify a delayed implementation date of June 30, 2026, to allow the BOP time to promulgate rules and implement required licensing database upgrades for enforcement of this amendment.