

LFC Requester:

Ruby Ann Esquibel

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

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

Date Prepared: 02/11/2025

Check all that apply:

Bill Number: HB263

Original Correction
Amendment Substitute

Sponsor: Rep. Elizabeth "Liz" Thomson, Rep. Marianna Anaya, Rep. Sarah Silva, Rep. Reena Szczepanski, Rep. Anita Gonzales

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing Analysis: Ben Lovell

Short Title: HOSPITAL PRICE TRANSPARENCY ACT

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

Section 1: The act is named the "Hospital Price Transparency Act."

Section 2: Definitions. This section defines key terms used in the Act: The definitions vest the health care authority with enforcement power. This section defines services performed by hospitals that will be subject to the act and how that data shall be presented.

Section 3: Public Availability of Price Information. Hospitals must post pricing details on their websites, including gross charges, negotiated charges, discounted cash prices, and billing codes. They must also list at least 300 shoppable services, defined as a service that may be scheduled by a person in advance,” with associated prices. Section 2(R). Information must be free, searchable, and updated annually. No barriers such as account requirements or passwords should restrict access.

Section 4: Reporting Requirements. Hospitals must submit their pricing lists to the health authority, which will make them publicly available within 60 days. The authority will also report progress to legislative committees annually.

Section 5: Enforcement. The Health Care Authority shall establish an electronic complaint system for consumers to report violations. Hospitals can be fined for price transparency violations in a tiered system of up to \$15,000 on the fourth and subsequent violations. Each day of non-compliance is a separate violation. The authority can audit compliance and prohibit collection actions if violations occur. Section 5(H) prohibits collections actions by hospitals if the hospital was in violation of the Act. Patients may bring a cause of action to have a court determine if the hospital is in violation of the Act. The hospital is prohibited from submitting information to the patient’s credit report while the civil action is pending. Section 5(I) allows for attorney fees and costs.

Section 6: Information for Patients. Before collections, hospitals must provide itemized statements, payment receipts, language assistance info, and contact details for clarification.

Section 7: Rulemaking. The health authority may create additional rules to enforce the Hospital Price Transparency Act.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

This bill vests the healthcare authority with the power to impose civil penalties after an administrative determination. In *SEC v. Jarkesy*, the United States Supreme Court determined that when civil penalties concern “culpability, deterrence, and recidivism,” they may be construed as legal rather than equitable remedies and may require a jury trial to impose. *Sec. & Exch. Comm'n v. Jarkesy*, 603 U.S. 109, 123, 144 S. Ct. 2117, 2129, 219 L. Ed. 2d 650 (2024). As the *Jarkesy* decision is a substantial change to administrative law jurisprudence, it is not yet clear whether and how state courts will apply its principles to New Mexico agencies.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

Section 5(B)(3) states that a hospital will violate the act if said hospital “fails to take immediate action to remedy a violation.” The term “immediate action” is followed by a requirement in Section 5(C)(2) that the authority shall tell a hospital in violation of the act that the hospital is required to “provide prompt confirmation” that the corrective action was taken.

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS