HOUSE BILL 505

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

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AN ACT

RELATING TO OPIOIDS; REQUIRING RETAIL PHARMACIES TO KEEP STOCKS OF CERTAIN TYPES OF DRUGS THAT TREAT OPIOID USE DISORDER; REQUIRING WHOLESALE DRUG DISTRIBUTORS TO REPORT INSTANCES IN WHICH THE DISTRIBUTORS DO NOT FILL ORDERS FOR BUPRENORPHINE MADE BY RETAIL PHARMACIES; REQUIRING REPORTS; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the New Mexico Drug, Device and Cosmetic Act is enacted to read:

"[NEW MATERIAL] BUPRENORPHINE STOCKING REQUIREMENTS.--

A. At least once every thirty days, each retail pharmacy that stocks controlled substances shall compute the retail pharmacy's minimum daily buprenorphine stocking requirement by determining the average amount of buprenorphine

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dispensed per day in the previous thirty days, rounding to the nearest milligram. Each retail pharmacy shall maintain a stock of buprenorphine sufficient to satisfy the minimum daily buprenorphine stocking requirement, plus at least three additional prescriptions for buprenorphine, including at least one prescription for buprenorphine that is a buprenorphine monoproduct and one prescription for buprenorphine that is a buprenorphine-naloxone combination product. A retail pharmacy that fails to satisfy the stocking requirements of this section is not in violation of this section if the retail pharmacy takes any of the following actions within three days of failing to satisfy the stocking requirements:

(1) ordering a replacement stock of buprenorphine sufficient to satisfy the stocking requirements of this section; or

(2) requesting a wholesale drug distributor to increase the retail pharmacy's allotment of buprenorphine, and:

(a) once the wholesale drug distributor approves the request, ordering a replacement stock of buprenorphine within three days of receiving the approval; or

(b) the wholesale drug distributor denies the request.

B. A retail pharmacy shall maintain records of the retail pharmacy's minimum daily buprenorphine stocking requirements. Records shall be maintained for a period of at

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least three years from the date of the record and may be inspected as required by authorized agents of the board.

C. A wholesale drug distributor shall report to the board on a monthly basis, in a form and manner prescribed by the board, each instance in which the wholesale drug distributor:

(1) denied, in whole or in part, an order for buprenorphine submitted by a retail pharmacy;

(2) delayed an order for buprenorphine submitted by a retail pharmacy due to the retail pharmacy's threshold of buprenorphine; or

(3) denied a request by a retail pharmacy to increase the retail pharmacy's threshold of buprenorphine.

D. A report submitted by a wholesale drug distributor pursuant to this subsection shall include:

(1) the name of the retail pharmacy affected;

(2) the date on which the retail pharmacy submitted the order for buprenorphine or requested an increase to the retail pharmacy's threshold of buprenorphine;

(3) the date on which the wholesale drug distributor denied or delayed the retail pharmacy's order for buprenorphine or denied the requested increase in the retail pharmacy's threshold of buprenorphine;

(4) the reason the wholesale drug distributor denied or delayed the retail pharmacy's order for buprenorphine

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or denied the requested increase in the retail pharmacy's threshold of buprenorphine; and

(5) any other information required by the board.

E. The board shall submit data gathered pursuant to this section to the department of health. The department of health shall analyze the data and publish a biannual report on access to buprenorphine in retail pharmacies. The report shall include:

(1) information on the frequency with which each wholesale drug distributor:

(a) denied a retail pharmacy's order for buprenorphine;

(b) delayed a retail pharmacy's order for buprenorphine due to the retail pharmacy's threshold of buprenorphine; or

(c) denied a retail pharmacy's requested increase in the retail pharmacy's threshold of buprenorphine;

(2) aggregated data on the reasons reported by wholesale drug distributors for denying a retail pharmacy's order for buprenorphine or a request by a retail pharmacy to increase the retail pharmacy's threshold of buprenorphine;

(3) a description of how denials or delays of retail pharmacy orders for buprenorphine affected access to buprenorphine;

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(4) a description of how denials of retail pharmacy requests to increase their threshold of buprenorphine affected access to buprenorphine;

(5) geographic and demographic disparities in access to buprenorphine in retail pharmacies, to the extent the data is available;

(6) the impact of insufficient access to buprenorphine in retail pharmacies on initiation of and retention in treatment for opioid use disorder, overdose morbidity and mortality and other health outcomes associated with substance use disorder; and

(7) any other relevant information.

F. Reports published pursuant to Subsection E of this section shall comply with state and federal privacy and confidentiality laws, rules and regulations.

G. The board may impose the following penalties on retail pharmacies that violate this section:

(1) for a first or second violation, notice of the violation that includes information on the requirements to comply with this section; and

(2) for a third violation or any subsequent violation within a thirty-six-month period following the previous violation, a fine not to exceed two thousand five hundred dollars ($2,500).

H. The board may impose the following penalties on

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wholesale drug distributors that violate this section:

(1) for a first violation, notice of the violation that includes information on the requirements to comply with this section; and

(2) for a second violation or any subsequent violation within a thirty-six-month period following the previous violation, a fine not to exceed ten thousand dollars ($10,000).

I. As used in this section:

(1) "buprenorphine" means the drug buprenorphine, including any official, generic or chemical name used to describe buprenorphine prescribed for the treatment of opioid use disorder;

(2) "minimum daily buprenorphine stocking requirement" means the average number of milligrams of buprenorphine dispensed by a retail pharmacy per day over a thirty-day period, in formulations, dosages and brand names consistent with the prescriptions for buprenorphine dispensed by the retail pharmacy during the thirty-day period;

(3) "prescription for buprenorphine" means sufficient buprenorphine in tablet or film form to provide a patient with twenty-four milligrams per day for two weeks;

(4) "retail pharmacy" means a pharmacy physically located, and licensed to dispense drugs, in the state; and

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(5) "wholesale drug distributor" means a person licensed to engage in the wholesale distribution of prescription drugs in the state."