

A JOINT MEMORIAL  
REQUESTING A STUDY OF THE NEED FOR REGULATION AND OVERSIGHT OF  
PHARMACY BENEFIT MANAGEMENT COMPANIES.

WHEREAS, the cost of prescription drugs continues to be a huge component of the cost of health care in the nation and the state; and

WHEREAS, the cost of prescription drugs in New Mexico is estimated to have been eight hundred four million dollars (\$804,000,000) in 2004; and

WHEREAS, New Mexico state government pays for prescription drugs for more than five hundred thousand people covered through the medicaid program, for those incarcerated in our state prisons and for state employees and retirees; and

WHEREAS, pharmacy benefit managers are private companies that administer and manage the purchase and dispensing of and reimbursement for prescription drugs for public and private insurance plans; and

WHEREAS, many pharmacy benefit managers also own and operate their own mail order pharmacies; and

WHEREAS, in the United States, pharmacy benefit managers handle prescription drug benefits for an estimated ninety-five percent of all patients with prescription drug insurance; and

WHEREAS, the state is among many entities that rely on the services of pharmacy benefit managers to negotiate

discounted prices for prescription drugs, develop formularies of covered drugs, establish and maintain adequate networks of pharmacies and manage utilization of drugs through prior authorization or utilization reviews; and

WHEREAS, the extremely complex system of prescription drug pricing involves many different prices, rebates and discounts and involves many different parties in the purchasing and dispensing of the product; and

WHEREAS, it is in the best interest of the state to have full knowledge of the pricing structure, negotiated discounts and supplementary payments that pharmacy benefit managers receive from prescription drug manufacturers in order to ensure that the lowest possible prescription price is passed along to beneficiaries; and

WHEREAS, it is similarly important for the state to have knowledge that beneficiaries are receiving drugs that are the most medically appropriate and of the lowest cost; and

WHEREAS, pharmacy benefit managers are credited with assisting health insurers and states to achieve savings on prescription drugs; and

WHEREAS, disclosure of financial arrangements and conflicts of interest and sharing of data about utilization management is generally covered in contracts between entities and should not be required by state law; and

WHEREAS, there are conflicting opinions regarding the

impact of requiring price transparency on prescription drug prices; and

WHEREAS, the administrative activities of this important industry are largely unregulated, except for regulations governing the operation of pharmacy businesses; and

WHEREAS, recent state and federal lawsuits have been filed alleging the possibility of serious conflicts of interest, understated savings from deals with prescription drug manufacturers and the use of information about utilization and prescribing patterns for marketing purposes rather than for benefiting patient health; and

WHEREAS, the nature and purpose of regulation is highly controversial, and the outcome of regulation is uncertain;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the New Mexico health policy commission be requested to convene a task force to study the need for regulation of pharmacy benefit management companies; and

BE IT FURTHER RESOLVED that the task force include representation from the human services department, the department of health, the office of the attorney general, the insurance division of the public regulation commission, the risk management division of the general services department, members of statewide organizations representing retail pharmacists and retail chain pharmacies, representatives of

the pharmacy benefit manager industry, consumers and others as appropriate; and

BE IT FURTHER RESOLVED that the study evaluate the various administrative and corporate structures of pharmacy benefit managers; and

BE IT FURTHER RESOLVED that the task force identify and create a graphic representation of the pricing structure of prescription drugs, including the various levels at which rebates, discounts and other incentives are offered; and

BE IT FURTHER RESOLVED that the necessity for regulation of pharmacy benefit managers be evaluated; and

BE IT FURTHER RESOLVED that the task force study the extent to which pharmacy benefit managers interact with covered individuals and the value and propriety of those interactions; and

BE IT FURTHER RESOLVED that the task force evaluate the positive and negative aspects of disclosure of financial and utilization information; and

BE IT FURTHER RESOLVED that the study include a complete listing of the approaches other states have taken in regulating the pharmacy benefit manager business, including the status of current legal actions; and

BE IT FURTHER RESOLVED that the findings and recommendations of the study be presented to the interim legislative health and human services committee at its October

2005 meeting; and

BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the director of the New Mexico health policy commission, the secretaries of human services, health and general services, the chief of staff of the public regulation commission and the attorney general.