

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: 2/21/2025

Check all that apply:

Bill Number: HB 527

Original Correction
Amendment Substitute

Sponsor: Rep. Christina Parajon

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

Short Title: INSURANCE COVERAGE FOR MEDICAL CANNABIS COSTS

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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:

House Bill 527 (“HB527” or the “Bill”) seeks to add new language and new sections regarding insurance coverage of medical cannabis to NMSA 1978, Sections 27-2-1 to -47 Health Care Purchasing Act, NMSA 1978, Sections 13-7-1 to -47 Public Assistance Act, NMSA 1978, Sections 59A-22-1 to -7 Preferred Provider Arrangements, NMSA 1978, Sections 59A-46-1 to -72 Health Maintenance Organization Law, and NMSA 1978, Sections 59A-47-1 to -66 Nonprofit Health Care Plan Law.

Section 1: HB527 proposes creating a new section in NMSA 1978, Sections 27-2-1 to -47 Health Care Purchasing Act. The Bill adds various definitions to the Health Care Purchasing Act, mostly cannabis related. HB527 would require that group health coverage provides coverage for an adequate supply of medical cannabis (consistent with what might otherwise be prescribed in place of medical cannabis). The Bill would require the insurer to either reimburse the insured or direct payment to the cannabis retailer.

Section 2: HB527 proposes creating a new section in NMSA 1978, Sections 13-7-1 to -47 Public Assistance Act. The Bill amends the Public Assistance Act by adding largely the same definitions as the first section. The Bill would require that the medical coverage provided pursuant to the Public Assistance Act provides coverage for an adequate supply of medical cannabis (consistent with what might otherwise be prescribed in place of medical cannabis). The Bill would require the medical coverage provided pursuant to the Public Assistance Act to either reimburse the insured or direct payment to the cannabis retailer.

Section 3: HB527 proposes creating a new section in NMSA 1978, Sections 59A-22-1 to -7 Preferred Provider Arrangements. The Bill amends Chapter 59A, Article 22 by adding largely the same definitions as the previous sections. HB527 would require that individual or group health insurance plans provide coverage for an adequate supply of medical cannabis (consistent with what might otherwise be prescribed in place of medical cannabis). The Bill would require the insurer to either reimburse the insured or direct payment to the cannabis retailer.

Section 4: HB527 proposes creating a new section in NMSA 1978, Sections 59A-23-1 to -32 Group and Blanket Health Insurance Contracts. The Bill amends NMSA 1978, Sections 59A-23-1 to -32 by adding largely the same definitions as the previous sections. The Bill would require that group or blanket health insurance policies provide coverage for an adequate supply

of medical cannabis (consistent with what might otherwise be prescribed in place of medical cannabis). The Bill would require the insurer to either reimburse the insured or direct payment to the cannabis retailer.

Section 5: HB527 proposes creating a new section in NMSA 1978, Sections 59A-46-1 to -72 Health Maintenance Organization Law. The Bill amends the Health Maintenance Organization Law by adding largely the same definitions as the previous sections. The Bill would require that individual and group health maintenance organization contracts provide coverage for an adequate supply of medical cannabis (consistent with what might otherwise be prescribed in place of medical cannabis). The Bill would require the insurer to either reimburse the enrollee or direct payment to the cannabis retailer.

Section 6: HB527 proposes creating a new section in Sections 59A-47-1 to -66 Nonprofit Health Care Plan Law. The Bill amends the Nonprofit Health Care Plan Law by adding largely the same definitions as the previous sections. The Bill would require that individual or group health insurance plans provide coverage for an adequate supply of medical cannabis (consistent with what might otherwise be prescribed in place of medical cannabis). The Bill would require the insurer to either reimburse the insured or direct payment to the cannabis retailer.

Section 7: HB527 proposes an effective date of January 1, 2026.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

HB527 as proposed would require health insurance companies to add medical cannabis coverage in plans with either reimbursement or direct payment to the cannabis retailer. In *Vialpando v. Ben's Auto. Servs.*, 2014-NMCA-084, 331 P.3d 975, the New Mexico Court of Appeals held that “health care services” include the use of medical cannabis. *Vialpando v. Ben's Auto. Servs.*, 2014-NMCA-084, ¶¶ 1, 13, 331 P.3d 975. While HB527 language may allow for reimbursement and direct payments, HB527 is possibly preempted by federal laws and regulations, more specifically, the Controlled Substances Act (CSA), 21 U.S.C. §§ 801–904 (2012). “The Supremacy Clause of the Constitution, art. VI, cl. 2, invalidates state laws that interfere with, or are contrary to laws of Congress, made in pursuance of the Constitution.” *United States v. City & Cty. of Denver*, 100 F.3d 1509, 1512 (10th Cir. 1996) (citation omitted). Federal law expressly preempts state law when “the language of the federal statute reveals an express congressional intent to do so.” *Id* at 1512. In *Lewis v. Am. Gen. Media*, 2015-NMCA-090, ¶ 25, 355 P.3d 850, the New Mexico Court of Appeals agreed with the employer that the Controlled Substances Act (CSA), 21 U.S.C. §§ 801–904 (2012) conflicts with the Compassionate Use Act in that the CSA does not except marijuana used for medical purposes from its prohibition of possession or distribution of even small amounts of marijuana. *Lewis v. Am. Gen. Media*, 2015-NMCA-090, ¶ 25, 355 P.3d 850, 857 (internal citations omitted). In the case of the Controlled Substances Act, the statute reflects a determination that marijuana has no medical benefits worthy of an exception (outside the confines of a Government-approved research project). Whereas some other drugs can be dispensed and prescribed for medical use, see 21 U.S.C. § 829, the same is not true for marijuana. Indeed, for purposes of the Controlled Substances Act, marijuana has “no currently accepted medical use” at all. *United States v. Oakland Cannabis Buyers' Co-op.*, 532 U.S. 483, 491, 121 S. Ct. 1711, 1718, 149 L. Ed. 2d 722 (2001).

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relationship:

House Bill 112: Relating to Cannabis Regulation: providing for state criminal history checks and national background checks as a condition of eligibility for licensure and requiring that an application for cannabis activity licensure be signed by the applicant.

House Bill 230: Relating to medical cannabis: clarifying when drug testing for cannabis is allowed for employees who are qualified patients pursuant to the Lynn and Erin Compassionate Use Act, providing protections against adverse employment actions, providing requirements for determining impairment, and requiring the Department of Health and the Workforce Solutions Department to develop guidelines for employers. Companion to SB269.

Senate Bill 89: Relating to taxation: removing incremental increases to the cannabis excise tax.

Senate Bill 152: Relating to cannabis: allowing counties to petition the Cannabis Control Division of the Regulation and Licensing Department for a moratorium on new cannabis producer licenses.

Senate Bill 269: Relating to medical cannabis: clarifying when drug testing for cannabis is allowed for employees who are qualified patients pursuant to the Lynn and Erin Compassionate Use Act, providing protections against adverse employment actions, providing requirements for determining impairment, and requiring the Department of Health and the Workforce Solutions Department to develop guidelines for employers. Companion to HB230.

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

N/A