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SENATE BILL 58

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

Mary Kay Papen

AN ACT

RELATING TO HEALTH CARE; ENACTING THE COMMUNITY HEALTH WORKERS ACT; PROVIDING FOR DEPARTMENT OF HEALTH CERTIFICATION OF COMMUNITY HEALTH WORKERS; PROVIDING FOR RULEMAKING, FEES, CRIMINAL BACKGROUND SCREENING AND DISCIPLINE RELATING TO CERTIFIED COMMUNITY HEALTH WORKERS; CREATING A BOARD OF CERTIFICATION OF COMMUNITY HEALTH WORKERS.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Community Health Workers Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Community Health Workers Act:

A. "applicant" means an individual applying to be certified or recertified as a community health worker;

B. "board" means the board of certification of

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1 community health workers;

2 C. "certificate" means the document issued by the
3 department to qualified applicants for certification as
4 community health workers;

5 D. "certification" means the voluntary process by
6 which the department grants recognition and use of a credential
7 to individuals who have met predetermined and standardized
8 requirements;

9 E. "certified community health worker" means a
10 community health worker to whom the department has issued a
11 certificate to practice as a certified community health worker;

12 F. "community health worker" means a public health
13 worker who:

14 (1) applies an understanding of the
15 experience, language and culture of the populations that the
16 individual serves and who provides one or more of the following
17 services:

18 (a) culturally appropriate disease- and
19 injury-prevention and health-promotion education and skill-
20 building;

21 (b) health and social service
22 information and outreach in community-based settings;

23 (c) cultural mediation or bridge-
24 building among individuals, communities and health and social
25 service providers;

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1 (d) support for individual and community
2 capacity to achieve positive health outcomes;

3 (e) facilitation of access to health and
4 social services;

5 (f) direct services aimed at optimizing
6 individual and family health outcomes, including: 1) informal
7 and motivational counseling; 2) interventions to maximize
8 social supports; 3) care coordination; and 4) health
9 screenings;

10 (g) advocacy for individual, family and
11 community health and social service needs; and

12 (h) other services that the secretary
13 defines by rule;

14 (2) is employed primarily on the basis of the
15 individual's understanding of, and connection with, the
16 populations and communities that the individual serves; and

17 (3) has experience providing services in
18 community settings;

19 G. "core competencies" means a set of overlapping
20 and mutually reinforcing skills and knowledge that is essential
21 for effective community health work in core areas that include:

22 (1) understanding of the community health
23 worker profession;

24 (2) effective communication skills;

25 (3) interpersonal skills;

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- 1 (4) health-coaching skills;
- 2 (5) service coordination skills;
- 3 (6) capacity-building skills;
- 4 (7) advocacy skills;
- 5 (8) technical teaching skills;
- 6 (9) community health outreach skills;
- 7 (10) community knowledge and assessment; and
- 8 (11) clinical-support skills;

9 H. "department" means the department of health;

10 I. "practice as a certified community health
11 worker" means a community health worker's application of the
12 education, training and experience in the core competencies to
13 effectively provide services to the communities and populations
14 that the community health worker serves through one or more of
15 the roles of the community health worker;

16 J. "recertification" means a renewal of
17 certification; and

18 K. "secretary" means the secretary of health.

19 **SECTION 3. [NEW MATERIAL] RULEMAKING--COMMUNITY HEALTH**
20 **WORKER CERTIFICATION--RECERTIFICATION--FEES.--**

21 A. The secretary shall adopt and promulgate rules
22 relating to the following:

- 23 (1) establishment and administration of a
24 voluntary program for certification of community health
25 workers, including criteria for:

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- 1 (a) minimum education;
2 (b) training;
3 (c) experience;
4 (d) attestation of an applicant's good
5 moral character; and

- 6 (e) other qualifications that the
7 secretary deems appropriate in accordance with the provisions
8 of the Community Health Workers Act;

- 9 (2) forms and procedures for the receipt,
10 review and action upon applications for initial community
11 health worker certification and for biennial recertification;

- 12 (3) establishment of standards for continuing
13 education and other requirements that the secretary deems
14 appropriate for biennial recertification; and

- 15 (4) procedures for disciplinary action
16 relating to applicants or certified community health workers.

17 Department rules shall include guidelines for:

- 18 (a) disciplinary action;
19 (b) reprimands;
20 (c) probation; and
21 (d) the denial, suspension or revocation
22 of certification or recertification.

23 B. The secretary may adopt and promulgate rules on
24 the following relating to the Community Health Workers Act:

- 25 (1) the board and its membership;

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- 1 (2) the determination, assessment and
- 2 collection of certification fees, recertification fees and
- 3 disciplinary fines;
- 4 (3) the establishment of criminal background
- 5 screening pursuant to Section 8 of the Community Health Workers
- 6 Act; or
- 7 (4) other matters that the secretary deems
- 8 appropriate to carry out the provisions of the Community Health
- 9 Workers Act.

10 C. The department shall apply any fee it collects

11 pursuant to the Community Health Workers Act to cover the costs

12 of administering the community health worker certification

13 program established pursuant to that act.

14 SECTION 4. [NEW MATERIAL] BOARD OF CERTIFICATION OF

15 COMMUNITY HEALTH WORKERS--CREATION--MEMBERSHIP--DUTIES.--

16 A. The "board of certification of community health

17 workers" is created. The board is administratively attached to

18 the department and shall meet periodically at the call of the

19 chair.

20 B. The board shall consist of nine members who

21 shall be:

- 22 (1) residents of the state;
- 23 (2) appointed by and serve at the pleasure of
- 24 the secretary; and
- 25 (3) composed of:

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1 (a) the secretary or the secretary's
2 designee, who shall serve as chair of the board; and

3 (b) eight additional members, at least
4 three of whom shall be community health workers.

5 C. In determining the membership of the board, the
6 secretary shall endeavor to appoint community health worker
7 stakeholders such as health care providers, individuals from
8 institutions of higher learning and members of the community
9 from various geographic regions of the state.

10 D. The secretary shall adopt and promulgate rules
11 that establish the duties of the board and the conduct of its
12 meetings. At a minimum, the duties of the board shall include
13 making recommendations to the secretary on the following
14 matters:

15 (1) standards and requirements for the
16 establishment, board evaluation and board approval or board
17 acceptance of community health worker education and training
18 programs in the state, the successful completion of which shall
19 qualify an individual as eligible to apply to the department
20 for certification as a certified community health worker;

21 (2) standards and requirements for approval or
22 acceptance of continuing education courses and programs as the
23 board may require for the biennial renewal of a community
24 health worker certificate;

25 (3) minimum education, training, experience

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1 and other qualifications that a certified community health
2 worker shall possess to qualify as a trainer in any education,
3 training or continuing education program for community health
4 workers approved or accepted by the board;

5 (4) a means to acknowledge, document and
6 assess relevant education, training, experience, mastery of
7 core competencies or other qualifications acquired by community
8 health workers practicing in the state before the effective
9 date of the Community Health Workers Act for purposes of
10 certification while waiving minimum training and experience
11 requirements established pursuant to Paragraph (1) of
12 Subsection A of Section 3 of the Community Health Workers Act;
13 and

14 (5) the type of certification examination or
15 other means to assess community health worker competency in
16 connection with certification that the department shall require
17 if the secretary determines that a certification examination
18 would enhance the advancement of the practice and profession of
19 community health workers.

20 SECTION 5. [NEW MATERIAL] REQUIREMENTS FOR
21 CERTIFICATION--RE-CERTIFICATION.--

22 A. An applicant for certification or
23 recertification shall submit an application for registration to
24 the department in a form prescribed by rules that the secretary
25 has adopted and promulgated. The application shall be:

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- 1 (1) in the name of the applicant;
- 2 (2) signed or otherwise authenticated by the
- 3 applicant under penalty of perjury;
- 4 (3) accompanied by any fee that the secretary
- 5 has established by rule; and
- 6 (4) accompanied by proof that the applicant:
- 7 (a) is at least eighteen years of age;
- 8 (b) is of good moral character; and
- 9 (c) has met all the educational,
- 10 training and experience requirements and any other
- 11 qualifications that the secretary has established by rule for
- 12 certification or recertification.

13 B. Subject to limitations that the secretary may

14 establish by rule, the department may issue provisional

15 certification to a minor who is at least sixteen years of age

16 and younger than eighteen years of age if the minor otherwise

17 meets the requirements for certification.

18 C. A certificate holder shall carry department-

19 issued documentation of certification. A certificate holder

20 shall present documentation of certification upon request.

21 D. The department shall issue certificates that

22 shall be valid for two years to certified community health

23 workers. A certificate may be recertified in accordance with

24 department rules.

25 SECTION 6. [NEW MATERIAL] USE OF CERTIFIED COMMUNITY

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1 HEALTH WORKER DESIGNATION--UNAUTHORIZED PRACTICE.--

2 A. In order to use the title "certified community
3 health worker", the initials "CCHW" or other designation
4 indicating that the individual is a certified community health
5 worker, an individual shall be certified pursuant to the
6 provisions of the Community Health Workers Act.

7 B. To ensure compliance with the provisions of the
8 Community Health Workers Act or any rule that the secretary has
9 adopted and promulgated pursuant to that act, the department
10 may:

11 (1) issue cease-and-desist orders to persons
12 violating the provisions of the Community Health Workers Act;
13 or

14 (2) institute any legal proceedings necessary.

15 C. A certified community health worker shall engage
16 only in those activities authorized pursuant to Subsection F of
17 Section 2 of the Community Health Workers Act and by rules
18 adopted and promulgated pursuant to that act. While engaging
19 in practice as a certified community health worker, an
20 individual shall not engage in or perform any act or service
21 for which a professional license or other legal authority is
22 required. Nothing in this section shall be construed to
23 prevent or restrict the practice, service or activities of any
24 individual simultaneously certified as a community health
25 worker and licensed, certified, registered or otherwise legally

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1 authorized in the state to engage in the practice of another
2 profession if that individual does not:

3 (1) represent to the public, directly or
4 indirectly, that the individual is a certified community health
5 worker; and

6 (2) while engaged in the authorized practice
7 of another profession, use any name, title, the initials "CCHW"
8 or other designation indicating that the individual is a
9 certified community health worker.

10 SECTION 7. [NEW MATERIAL] LIABILITY--COMPLAINTS--
11 INFORMATION OR ASSISTANCE.--A person shall not be liable for
12 the following actions if performed in good faith and without
13 malice:

14 A. filing a complaint alleging a violation of the
15 Community Health Workers Act or rules that the department has
16 promulgated pursuant to that act; or

17 B. providing information or assistance to the
18 department in furtherance of the department's administration
19 and enforcement of the community health worker certification
20 program established pursuant to the Community Health Workers
21 Act or rules that the department has promulgated pursuant to
22 that act.

23 SECTION 8. [NEW MATERIAL] CRIMINAL HISTORY SCREENING.--

24 A. The department may obtain from the department of
25 public safety, the federal bureau of investigation or any other

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1 law enforcement agency or organization the criminal history
2 records of those applicants who apply to become certified
3 community health workers.

4 B. The secretary shall adopt and promulgate rules
5 that provide for criminal background checks for applicants and
6 community health workers that may include:

7 (1) requiring and setting forth the procedures
8 for criminal background checks of applicants who wish to become
9 certified community health workers pursuant to the Community
10 Health Workers Act;

11 (2) requiring applicants to be fingerprinted;

12 (3) providing for an applicant who has been
13 denied certification or a certified community health worker
14 whose certification has been suspended or revoked based on a
15 background check to inspect or challenge the validity of the
16 background check record;

17 (4) providing for the use of criminal history
18 records of the applicant obtained from the department of public
19 safety, federal bureau of investigation or any other law
20 enforcement agency or organization;

21 (5) providing for submission of an applicant's
22 fingerprint cards to the federal bureau of investigation to
23 conduct a nationwide criminal history check and to the
24 department of public safety to conduct a state criminal history
25 check; and

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1 (6) identifying what information obtained from
2 a criminal background check may form the basis of denial,
3 suspension or revocation of certification pursuant to the
4 Community Health Workers Act or any other disciplinary action.

5 C. Arrest record information received from the
6 department of public safety and the federal bureau of
7 investigation shall be privileged and shall not be disclosed to
8 persons not directly involved in the decision affecting the
9 applicant. The department shall comply with applicable
10 confidentiality requirements of the department of public safety
11 and the federal bureau of investigation regarding the
12 dissemination of criminal background check information.

13 D. Electronic live fingerprint scans may be used
14 when conducting criminal history background checks.

15 E. An applicant or certified community health
16 worker whose certification or recertification is denied,
17 suspended or revoked, or who is otherwise disciplined based on
18 information obtained in a criminal history background check,
19 shall be entitled to appeal the decision under rules
20 promulgated by the department.

21 F. The applicant or certified community health
22 worker shall bear any costs associated with ordering or
23 conducting criminal background checks.

24 G. The provisions of the Criminal Offender
25 Employment Act shall govern any consideration of criminal

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1 records required or permitted by the Community Health Workers
2 Act.

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