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FISCAL IMPACT REPORT

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SPONSOR Ortiz y Pino **ORIGINAL DATE** 2/5/2015 **LAST UPDATED** _____ **HB** _____

SHORT TITLE Transfer Adolescent Treatment Act to UNM **SB** 43

ANALYST Hartzler

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		
	Unknown	Unknown	Recurring	UNM HSC Operating Budget
	(Unknown)	(Unknown)	Recurring	DOH Operating Budget

(Parenthesis () Indicate Revenue Decreases)

Relates to Appropriation in the General Appropriation Act, Section 4, Department of Health, Facilities Management

Relates to Appropriation in the General Appropriation Act, Section 4, Higher Education, University of New Mexico Health Sciences Center

SOURCES OF INFORMATION

LFC Files

Responses Received From

Children, Youth and Family Department (CYFD)
Department of Health (DOH)

No Response Received from

University of New Mexico (UNM) Health Sciences Center (HSC)

SUMMARY

Synopsis of Bill

Senate Bill 43 amends the Adolescent Treatment Hospital Act to transfer administrative and other responsibilities of the state's adolescent treatment facility (a.k.a., Sequoya Adolescent Treatment Center) from the DOH to UNM. To accomplish this objective, SB 43 does the following:

- Authorizes the UNM board of regents, and not the DOH secretary, to appoint members of the adolescent treatment hospital governing board.
- Clarifies that the hospital governing board must advise and report to the board of regents.
- Requires the board of regents, in consultation with the hospital governing board, define admittance criteria to the adolescent treatment facility, where the admittance criteria cannot exclude adolescents in custody of any state agency.
- Requires the board of regents ensure the hospital or treatment facility maintains or regains accreditation by the appropriate hospital accreditation body.
- Allows the board of regents to receive all fees and payments and to use these revenues for the purpose of operating the hospital and adolescent residential treatment facility.

The bill includes an emergency clause, making the transfer of these responsibilities immediate upon enactment.

FISCAL IMPLICATIONS

DOH reports that the “fiscal implications would be complex and extensive” should SB 43 be enacted. UNM HSC did not provide a response to the FIR request. Without an analysis by the affected departments, LFC staff cannot, with any specificity, identify the scale and scope of the fiscal implications. However, it is clear that the transfer of obligations and revenues from DOH to UNM HSC would be recurring; that it would take substantial staffing and time to analyze the obligations, risks, policies and procedures, and revenues involved and establish a structure to complete the transfer effectively with minimal patient risk.

SIGNIFICANT ISSUES

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According to DOH

The goal of the bill is to place SATC under the authority and control of UNM. DOH strongly disagrees with the intent of SB43. The mission of the Sequoyah Adolescent Treatment Center (SATC) is to promote safe, healing, and empowering services for our residents and their families. SATC creates opportunities to counsel, teach, support, and model skills needed to support the residents and families to achieve the outcomes they desire in the community. Currently, SATC maintains 36 licensed beds and the census is 31 adolescent males, ages 13 – 19 years.

Admission criteria include adolescent males who:

- have threatened harm to themselves or others, or who have a history of physical aggression to themselves or others
- due to worsening psychiatric symptoms, have a high likelihood of acute inpatient hospitalization without immediate intervention for whom current outpatient services are likely to not be beneficial
- have a mental health condition
- have the cognitive capacity to benefit from verbal therapy and milieu programming
- are not likely to benefit from regular educational setting

SATC receives referrals from the Juvenile Probation Department, Children, Youth, and Families Department, and Lower-level care mental health providers. Payor sources

include managed care organizations, private insurance and self payors.

SATC has evolved from a corrections philosophy (Levels and Points) and punitive culture, including the use of chemical and physical restraints to control behavior.

The current treatment approach is based on a Multi-Disciplinary Team approach. The team creates a resident-centered collaborative care plan based on unique needs and informed by field-tested theories. SATC has implemented the *Crisis Prevention Intervention* (CPI) Model, supported by CYFD and Disability Rights NM (DRNM). Key

Currently, SATC employs a multi-disciplinary approach with a theoretical foundation that is based on two key, evidence-based initiatives:

- Building Bridges:
 - ✓ Family-Driven, Youth-Guided Care;
 - ✓ Cultural and Linguistic Competence;
 - ✓ Clinical Excellence and Quality Standards;
 - ✓ Accessibility and Community Involvement;
 - ✓ Transition Planning and Services from Day One; and,
 - ✓ Reduce Restraint/Seclusion Use through application of the Debriefing Process.
- Trauma-Informed Care:

A program, organization, or system that is trauma-informed realizes the widespread impact of trauma and understands potential paths for healing; recognizes the signs and symptoms of trauma in staff, clients, and others involved with the system; and, responds by fully integrating knowledge about trauma into policies, procedures, practices, and settings.

CYFD has regulatory oversight (NMAC 7.20.11) of SATC and on March 31, 2014, SATC Received one-year full certification licensure. SATC received full Accreditation from The Joint Commission, an independent, not-for-profit organization, in September 2013. This Accreditation is a statement of Quality of Care provided at the facility.

The Facilities Governing Board maintains oversight of all 7 DOH facilities. The Board includes the DOH Cabinet Secretary and deputies, all 7 facility administrators, chief medical and nursing officers, the agency general counsel, and the cabinet secretaries of 4 other agencies.

SATC maintains a comprehensive education program, including middle and high school levels. The SATC School is a designated school district with on-site certified special education instructors and educational assistants.

The current caregiver to resident ratio at SATC is 1 to 3 boys, the CYFD requirement is a minimum of 1 caregiver to every 5 boys. Family therapy is offered to all SATC residents and is primarily provided by therapists and the child psychiatrist, as need is identified.

PERFORMANCE IMPLICATIONS

DOH notes that SB43 relates to the department's FY16 Strategic Plan, Result 2: Improved quality, accessibility, and utilization of healthcare services. Performance measure: Percent of behavioral health patient medical records transmitted to the next level of care within five calendar days.

A January 2015 LFC Evaluation, Department of Health: Office of Facilities Management and Spending, highlighted a number of issues and recommendations affecting the management and operations of facilities, including Sequoyah Adolescent Treatment Center. If SB 43 is enacted, UNM HSC, DOH, and other affected agencies should review the LFC's evaluation for issues to be addressed and best-practices that could be implemented.

ADMINISTRATIVE IMPLICATIONS

CYFD's Licensing and Certification Authority certifies compliance with state and federal regulations for SATC. The administrative transfer would have minimal impact on CYFD.

DOH reports that the transfer of the adolescent center to UNM HSC would not alleviate the department from its responsibilities for the state employees employed by the center. Among the other administrative issues to address as a result of SB 43, the department would need to (1) provide for the continuity of care for the current residents and (2) resolve or terminate current contracts related to services provided to the facility, removing all departmental property from the facility, collection and storage of all medical and other records currently maintained at the facility.

DOH identified a number of legal and regulatory issues that are included on page 6 of this FIR.

ALTERNATIVES

To address concerns raised by DOH and identified in the LFC's evaluation, SB 43 could be amended to require a study of the financial and other impacts of the transfer of Sequoyah Adolescent Treatment Facility to UNM HSC or any other entity that could assume the responsibilities detailed in the Adolescent Treatment Hospital Act.

TH/bb

**DEPARTMENT OF HEALTH:
LEGAL, REGULATORY AND OTHER SUBSTANTIVE ISSUES RAISED BY SB 43**

Regulatory conflicts:

SB 0043 Conflicts with NMAC 6.69.8.7 definitions section which contains the following language: "State agency" means the New Mexico military institute, the New Mexico school for the blind and visually impaired, the New Mexico school for the deaf, any juvenile detention center or facility served by the juvenile justice service of the children youth and families department, the New Mexico youth diagnostic and development center, the Sequoyah adolescent treatment center of the department of health, Carrie Tingley crippled children's hospital, the New Mexico behavioral health institute at Las Vegas and any other state agency responsible for educating resident children." The above regulation would have to be amended to substitute "Sequoyah adolescent treatment center of the department of health" with language reflecting the change to UNM board of regents.

Lease:

The facility and property is owned by the state. UNM would need to negotiate a lease with the state to continue to operate the facility at its current location or the facility would have to relocate.

Centennial contracts: DOH currently has contracts in place with Centennial Care to provide services. These contracts would be adversely affected by transfer of SATC from DOH to UNM.

Licensure and Accreditation:

The facility may have to reapply for licensure and accreditation under the new administration and this may cause an interruption in services or a shutdown of the facility during the licensing and accreditation process.

Employees:

Currently, all facility employees are DOH employees. Removing the facility from DOH may cause lay-offs of employees. Most of the employees are likely career status, classified employees as defined in NMAC Rule 1.7.1.7 (G), meaning those employees have certain rights under the State Personnel Act (New Mexico Statutes § 10-9-1, *et. seq.*) and rules promulgated by the State Personnel Board. Specifically, in an instance like this, New Mexico Statute § 10-9-19 and NMAC Rules 1.7.10.9 and 1.7.10.10 on Reduction in Force would apply. Rule 1.7.10.9 provides that employees in the classified service may only be laid off for deletion of positions, shortage of work, or lack of funding. Rule 1.7.10.9 goes on to set forth a procedure in the event of a need for reduction in force. The agency must first create a lay off plan and submit that plan to the State Personnel Board for approval. Employees in career status must be given at least fourteen (14) days notice of the lay off. Employees affected by a reduction in force have a right to first refusal of any position to be filled within the agency for which they meet the established requirements and is a same or lower pay band than the employee currently holds. There is further a right to reemployment for such employees for a period of six months following the lay off.

These requirements would be a significant administrative burden on the agency as human resources staff would need to review all open positions within the agency and compare them to each employee's qualifications.

Emergency Clause:

The emergency clause may be problematic because there would be very little transition time which, could affect current client services, contracts in place between DOH and vendors/contractors, employees and facility licensure an accreditation.

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