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HOUSE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO DISABILITIES; PROVIDING FOR THE INSTALLATION OF ELECTRONIC MONITORING DEVICES IN FACILITIES THAT HOUSE ADULTS WITH DEVELOPMENTAL DISABILITIES; PROVIDING FOR RULEMAKING.

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

SECTION 1. ~~[NEW MATERIAL]~~ DEFINITIONS.--As used in Sections 1 through 3 of this 2024 act:

A. "common area" means an area in a group home that is commonly and communally accessible to all residents, except the interior of bedrooms and bathrooms. "Common area" includes living areas, dining areas, entrances, hallways, outdoor areas and stairwells;

B. "community agency" means any nonprofit or for-profit corporation, tribal organization, unit of local government or other organization that supervises, operates or

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1 owns a group home and has entered into a contract with the
2 department for the purpose of providing developmental
3 disabilities services;

4 C. "department" means the department of health;

5 D. "electronic monitoring device" means a camera or
6 other electronic device that uses both audio and video
7 recording capabilities to monitor the activities taking place
8 in the area where the device is installed;

9 E. "group home" means a residential facility
10 supervised, owned or operated by a community agency that is
11 licensed or approved by the department to provide living
12 arrangements for multiple adults with developmental
13 disabilities;

14 F. "guardian" means a judicially appointed guardian
15 or conservator having authority to make decisions related to a
16 resident's health care and living arrangements; and

17 G. "resident" means an adult with developmental
18 disabilities living in a group home.

19 SECTION 2. [NEW MATERIAL] ELECTRONIC MONITORING DEVICES
20 IN GROUP HOMES.--

21 A. A resident or the guardian of a resident may
22 request that a community agency install electronic monitoring
23 devices in a common area of a group home. A resident or
24 guardian of a resident that desires to have an electronic
25 monitoring device installed shall submit to the community

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1 agency a signed form, developed by the department, formally
2 requesting and giving the resident's express consent for the
3 installation and use of one or more electronic monitoring
4 devices in a common area.

5 B. A community agency that receives a formal
6 request for the installation of an electronic monitoring device
7 in a common area of a group home supervised, owned or operated
8 by the agency shall, as soon as practicable, notify each
9 resident or guardian of a resident living in the group home of
10 the request. The notice provided by a community agency shall
11 not disclose the identity of the resident that made the request
12 and shall not provide any information that would tend to
13 identify the resident that made the request. The community
14 agency shall include with the notice a form developed by the
15 department that allows each resident the opportunity to consent
16 or decline consent to the installation of electronic monitoring
17 devices in a common area of a group home. If a resident or the
18 guardian of a resident declines to consent to the installation
19 of an electronic monitoring device in a common area, the
20 community agency shall provide the resident an opportunity to
21 transfer to a different group home. If a resident that
22 declines to consent to the installation of an electronic
23 monitoring device also declines the opportunity to transfer to
24 a different group home, the community agency shall not install
25 an electronic monitoring device in a common area of the group

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1 home.

2 C. A community agency that obtains consent to
3 install an electronic monitoring device in a common area from
4 every resident or guardian of a resident living in a group home
5 shall install at least one electronic monitoring device in a
6 common area of the group home. All costs associated with the
7 installation and maintenance of an electronic monitoring device
8 shall be borne by the community agency.

9 D. A community agency that installs an electronic
10 monitoring device in a common area of a group home shall ensure
11 that a prominent written notice is posted on the door of the
12 group home's front entrance to inform visitors that they will
13 be subject to electronic video recording while inside the group
14 home.

15 E. A resident or the guardian of a resident living
16 in a group home that has an electronic monitoring device
17 installed in a common area shall have the right to access and
18 review any recording that is produced by the device. A
19 community agency shall provide timely access to a resident or
20 guardian of a resident that requests to review a recording
21 produced by an electronic monitoring device.

22 F. A community agency that installs an electronic
23 monitoring device in a group home shall maintain the
24 confidentiality of recordings produced by the device and shall
25 not disclose a recording to a person who is not authorized to

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1 access or review the recording. Nothing in this section shall
2 be construed to limit a community agency from disclosing a
3 recording produced by an electronic monitoring device to a
4 state or local law enforcement agency or to any other person or
5 entity that is authorized by law to investigate or prosecute
6 incidents of abuse, neglect, exploitation or improper care or
7 treatment.

8 SECTION 3. [NEW MATERIAL] RULEMAKING REQUIRED.--

9 A. The department shall promulgate rules for the
10 installation of electronic monitoring devices in group homes
11 that, at a minimum, shall address:

12 (1) the required procedures and protocols for
13 obtaining consent from residents and the guardians of residents
14 to install electronic monitoring devices in group homes; and

15 (2) the requirements for electronic monitoring
16 devices, including:

17 (a) the minimum technological
18 requirements for electronic monitoring devices; and

19 (b) the proper installation and
20 positioning of electronic monitoring devices.

21 B. The department shall develop forms that
22 residents and guardians of residents may use to request the
23 installation of electronic monitoring devices in common areas
24 of group homes and forms that allow residents to consent or
25 decline consent to the installation of electronic monitoring

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1 devices in common areas of group homes. The department shall
2 provide the forms to each community agency and make the forms
3 available on the department's website.

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