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HOUSE BILL 98

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Joseph Cervantes

AN ACT

**RELATING TO COMMUNICABLE DISEASES; ENACTING AND ENTERING INTO
THE INTERSTATE COMPACT ON THREATENING COMMUNICABLE DISEASES;
GRANTING CERTAIN POWERS; IMPOSING CERTAIN DUTIES.**

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

**Section 1. INTERSTATE COMPACT ON THREATENING COMMUNICABLE
DISEASES-- ENTERED INTO. --The "Interstate Compact on Threatening
Communicable Diseases" is enacted into law and entered into
with all other jurisdictions legally joining therein in the
form substantially as follows:**

THE INTERSTATE COMPACT ON THREATENING COMMUNICABLE DISEASES

ARTICLE I

Findings and Purpose

**The party states find that the proper and expeditious
treatment of persons infected with threatening communicable**

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1 diseases can be facilitated by cooperative action, to the
2 benefit of the patients, their families and society as a whole.
3 Further, the party states find that the necessity of and
4 desirability for furnishing such care and treatment bears no
5 primary relation to the residence of the patient but that, on
6 the contrary, the controlling factors of community safety and
7 humanitarianism require that facilities and services be made
8 available for all who are in need of them. Consequently, it is
9 the purpose of this compact and of the party states to provide
10 the necessary legal basis for the appropriate care and
11 treatment of the persons with threatening communicable diseases
12 under a system that recognizes the paramount importance of
13 patient welfare and to establish the responsibilities of the
14 party states in terms of such welfare.

15 ARTICLE II

16 Definitions

17 As used in this compact:

18 A. "sending state" means a party state from which a
19 patient is transported pursuant to the provisions of the
20 compact or from which it is contemplated that a patient may be
21 so sent;

22 B. "receiving state" means a party state to which a
23 patient is transported pursuant to the provisions of the
24 compact or to which it is contemplated that a patient may be
25 transported;

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1 C. "institution" means any hospital or other
2 facility maintained by a party state or political subdivision
3 thereof for the care and treatment of patients with threatening
4 communicable diseases;

5 D. "patient" means any person subject to or
6 eligible, as determined by the laws of the sending state, for
7 care, treatment or supervision under this compact;

8 E. "state" means any state, territory or possession
9 of the United States, the District of Columbia and the
10 commonwealth of Puerto Rico; and

11 F. "threatening communicable disease" means a
12 disease that causes death or great bodily harm, passes from one
13 person to another and for which there is no means by which the
14 public reasonably can avoid the risk of contracting the
15 disease.

16 ARTICLE III

17 Eligibility and Transfer

18 A. Whenever a person physically present in any
19 party state shall be in need of hospitalization by reason of
20 infection with a threatening communicable disease, he shall be
21 eligible for care and treatment in an institution irrespective
22 of his residence, subject to the availability of appropriations
23 and bed space for that purpose.

24 B. The provisions of Subsection A of this article
25 to the contrary notwithstanding, any patient may be transferred

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1 to an institution in another state whenever there are factors
2 based upon clinical determinations indicating that the care and
3 treatment of the patient would be facilitated or improved
4 thereby. The sending state shall bear the costs of the care
5 and treatment provided in the receiving state, pursuant to a
6 written agreement between the states. Any such hospitalization
7 may be for the entire period of care and treatment or for any
8 portion or portions thereof. The factors referred to in this
9 subsection shall include the patient's full record with due
10 regard for the location of the patient's family, character of
11 the threatening communicable disease and probable duration
12 thereof and such other factors as shall be considered
13 appropriate.

14 C. No state shall be obliged to receive any patient
15 sent under Subsection B of this article unless the sending
16 state has given advance notice of its intention to send the
17 patient; conducted a medical examination of the patient;
18 furnished all available medical and other pertinent records
19 concerning the patient; and given the qualified medical or
20 other appropriate clinical authorities of the receiving state
21 an opportunity to examine the patient if the authorities so
22 wish; and unless the receiving state shall agree to accept the
23 patient.

24 D. In the event that the laws of the receiving
25 state establish a system of priorities for the admission of

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1 patients, an interstate patient under this compact shall
2 receive the same priority as a local patient and shall be taken
3 in the same order and at the same time that he would be taken
4 if he were a local patient.

5 E. Under this compact, the determination as to the
6 suitable place of hospitalization for a patient may be reviewed
7 at any time and such further transfer of the patient may be
8 made as seems likely to be in the best interest of the patient.

9 ARTICLE IV

10 Transporting

11 The duly accredited officers of any state party to this
12 compact, upon the establishment of their authority and the
13 identity of the patient, may transport any patient being moved
14 under this compact through any and all states party to this
15 compact, without interference.

16 ARTICLE V

17 Effect and Cost of Transfer

18 A. No person shall be deemed a patient of more than
19 one institution at any given time. Completion of transfer of
20 any patient to an institution in a receiving state shall have
21 the effect of making the person a patient of the institution in
22 the receiving state.

23 B. The sending state shall pay all costs of and
24 incidental to the transportation and care of any patient under
25 this compact, but any two or more party states may, by making a

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1 specific agreement for that purpose, arrange for a different
2 allocation of costs as among themselves.

3 C. No provision of this compact alters or affects
4 any internal relationships between the departments, agencies
5 and officers of and in the government of a party state, or
6 between a party state and its subdivisions, as to the payment
7 of costs, or responsibilities therefor.

8 D. Nothing in this compact prevents any party state
9 or subdivision thereof from asserting any right against any
10 person, agency or other entity in regard to cost for which such
11 party state or subdivision thereof may be responsible pursuant
12 to any provision of this compact.

13 E. Nothing in this compact invalidates any
14 reciprocal agreement between a party state and a nonparty state
15 relating to care or treatment of the person with the
16 threatening communicable disease, or any statutory authority
17 pursuant to which such agreements may be made.

18 ARTICLE VI

19 Compact Administrator

20 Each party state shall appoint a "compact administrator"
21 who, on behalf of his state, shall act as general coordinator
22 of activities under the compact in his state and who shall
23 receive copies of all reports, correspondence and other
24 documents relating to any patient processed under the compact
25 by his state either in the capacity of sending or receiving

1 state. The compact administrator or his duly designated
2 representative shall be the official with whom other party
3 states shall deal in any matter relating to the compact or any
4 patient processed under the compact.

5 ARTICLE VII

6 Supplementary Agreements

7 The duly constituted administrative authorities of any two
8 or more party states may enter into supplementary agreements
9 for the provision of any service or facility or for the
10 maintenance of any institution on a joint or cooperative basis
11 whenever the states concerned shall find that such agreements
12 will improve services, facilities or institutional care and
13 treatment in the fields of threatening communicable diseases.
14 No supplementary agreement shall be construed so as to relieve
15 any party state of any obligation that it otherwise would have
16 under other provisions of this compact.

17 ARTICLE VIII

18 Entry into Force

19 This compact shall enter into full force and effect as to
20 any state when enacted by it into law and such state shall
21 thereafter be a party to the compact with any and all states
22 legally joining in it.

23 ARTICLE IX

24 Withdrawal

25 This compact shall be liberally construed so as to

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1 effectuate its purposes. The provisions of this compact shall
2 be severable and if any phrase, clause, sentence or provision
3 of this compact is declared to be contrary to the constitution
4 of any party state or of the United States or the applicability
5 thereof to any government, agency, person or circumstance is
6 held invalid, the validity of the remainder of this compact and
7 its applicability to any government, agency, person or
8 circumstance shall not be affected. If this compact shall be
9 held contrary to the constitution of any state party to the
10 compact, the compact shall remain in full force and effect as
11 to the remaining states and in full force and effect as to the
12 state affected as to all severable matters.

13 Section 2. COMPACT COORDINATOR--POWERS AND DUTIES.--

14 Pursuant to the Interstate Compact on Threatening Communicable
15 Diseases, the director of the public health division of the
16 department of health or his designee is designated as the
17 compact administrator and, acting jointly with like officers of
18 other party states, may promulgate rules to carry out more
19 effectively the terms of the compact. The compact
20 administrator shall cooperate with all agencies and officers of
21 this state and the political subdivisions of this state in
22 facilitating the proper administration of the compact or of any
23 supplementary agreement entered into by this state under the
24 compact.

25 Section 3. SUPPLEMENTARY AGREEMENTS.--The compact

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1 administrator may enter into supplementary agreements with
2 appropriate officials of other states under Article VII of the
3 compact. In the event that the supplementary agreements shall
4 require or contemplate the use of any institution or facility
5 of this state or require or contemplate the provision of any
6 service by this state, no agreement shall have force or effect
7 until approved by the head of the agency under whose
8 jurisdiction the institution or facility is operated or whose
9 agency will be charged with the rendering of the service.

10 Section 4. PAYMENTS BY ADMINISTRATOR. --The compact
11 administrator may make or arrange for any payments necessary to
12 discharge any financial obligations imposed upon this state by
13 the compact or by any supplementary agreement entered into
14 under the compact.

15 Section 5. NOTICE OF TRANSFER. --Whenever the compact
16 administrator receives a request for the transfer of a patient
17 from an institution in this state to an institution in another
18 party state, and determines that the transfer is in the best
19 interest of the patient, the administrator shall give notice of
20 the proposed transfer to the patient. This notice shall also
21 notify the patient of the right, if requested, to a court
22 hearing on the proposed transfer and shall contain a request
23 for written consent from the patient for the transfer. The
24 notice shall be in writing, and the patient shall be given
25 fourteen days from the date of mailing of the notice to consent

1 or object to the transfer, or to request a court hearing. No
2 transfer shall be made if there is a written objection or
3 request made to the compact administrator except upon order of
4 the court after hearing. No transfer shall be made of a
5 patient ordered hospitalized by any court unless written notice
6 of the proposed transfer has been given to that court.

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