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HOUSE BILL 322

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

INTRODUCED BY

Danice Picraux

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO HEALTH FACILITIES; PROVIDING FOR OVERSIGHT OF
HOSPITALS, LONG-TERM CARE FACILITIES AND PRIMARY CARE CLINICS
BY THE SECRETARY OF HEALTH; ENACTING A NEW SECTION OF THE
PUBLIC HEALTH ACT.

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

Section 1. Section 24-1-1 NMSA 1978 (being Laws 1973,
Chapter 359, Section 1) is amended to read:

"24-1-1. SHORT TITLE.--~~[Sections 1 through 22 of this
act]~~ Chapter 24, Article 1 NMSA 1978 may be cited as the
"Public Health Act"."

Section 2. A new section of the Public Health Act is
enacted to read:

"[NEW MATERIAL] CONDITIONS OF LICENSURE.--

A. A hospital, a long-term care facility or a

underscoring material = new
[bracketed material] = delete

underscored material = new
~~[bracketed material]~~ = delete

1 primary care clinic, as a condition of licensure, shall provide
2 information sufficient for the secretary to make a reasonable
3 assessment of its financial viability and sustainability.

4 Proprietary information provided to the secretary shall remain
5 confidential and is exempt from the Inspection of Public
6 Records Act. The hospital, long-term care facility or primary
7 care clinic shall provide this information to the secretary
8 ninety days before the anticipated effective date of any of the
9 following events:

10 (1) a material and substantial change in
11 control of the ownership of the hospital, the long-term care
12 facility or primary the primary care clinic;

13 (2) a material and substantial change in
14 organizational control of the hospital, the long-term care
15 facility or primary the primary care clinic ; or

16 (3) a proposed licensure, closure, disposition
17 or acquisition of the hospital, the long-term care facility or
18 primary the primary care clinic or its essential services
19 required by the department of health.

20 B. The secretary shall review the information
21 provided pursuant to Subsection A of this section and report
22 the secretary's assessment of access and quality of care.
23 Additionally, the secretary shall report whether the financial
24 viability or sustainability of the hospital, long-term care
25 facility or primary care clinic is:

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underscored material = new
[bracketed material] = delete

1 (1) acceptable; or

2 (2) unacceptable, including specific areas of
3 deficiency, unless the secretary's determination is found to be
4 arbitrary and capricious.

5 C. The secretary may develop a process to prevent
6 closed long-term care facility beds from being reopened and
7 shall redirect funds toward community-based services.

8 D. Upon notice of deficiency in the financial
9 viability or sustainability of the hospital, the long-term care
10 facility or the primary cared clinic as provided in Subsection
11 A of this section, the secretary shall develop and recommend a
12 remedial plan that resolves any such deficiencies.

13 E. Upon reviewing the written notice submitted by
14 the hospital, the long-term care facility or the primary care
15 clinic, the secretary may impose a fine or penalty as provided
16 by department rule.

17 F. The hospital or the long-term care facility may,
18 based on an unacceptable determination by the secretary,
19 request a hearing pursuant to the Administrative Procedures
20 Act.

21 G. For the purposes of this section:

22 (1) "hospital" means a facility providing
23 emergency or urgent care, inpatient medical care and nursing
24 care for acute illness, injury, surgery or obstetrics.

25 "Hospital" includes a facility licensed by the department as a

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underscored material = new
[bracketed material] = delete

1 critical access hospital, general hospital, long-term acute
2 care hospital, psychiatric hospital, rehabilitation hospital,
3 limited services hospital and special hospital;

4 (2) "long-term care facility" means a nursing
5 home licensed by the department to provide intermediate or
6 skilled nursing care; and

7 (3) "primary care clinic" means a community-
8 based clinic that operates in a rural or other health care
9 underserved area of the state, has assets totaling less than
10 ten million dollars (\$10,000,000) is a 501(c)(3) nonprofit
11 corporation for federal income tax purposes and provides the
12 first level of basic or general health care for an individual's
13 health needs, including diagnostic and treatment services and,
14 if integrated into the clinic's service array, mental health
15 services."

16 Section 3. TEMPORARY PROVISION--OVERSIGHT OF OTHER HEALTH
17 FACILITIES.--The secretary of health shall evaluate the need to
18 apply the provisions of Section 2 of this act to all other
19 health facilities as defined in Section 24-1-2 NMSA 1978. The
20 secretary shall report findings and recommendations to the
21 legislative health and human services committee by October 1,
22 2004.