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HOUSE BILL 716

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Eleanor Chavez

AN ACT

RELATING TO HEALTH CARE; REQUIRING HEALTH FACILITIES TO PROVIDE PROFESSIONAL LANGUAGE INTERPRETATION SERVICES, TO RECORD PATIENTS' PREFERRED LANGUAGES AND TO PROVIDE WRITTEN MATERIALS FOR CERTAIN LANGUAGES; PROVIDING PENALTIES.

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

Section 1. A new section of the Public Health Act is enacted to read:

"[NEW MATERIAL] REQUIREMENT FOR LANGUAGE INTERPRETATION IN HEALTH FACILITIES--RECORDING PATIENTS' PREFERRED LANGUAGES-- REQUIREMENT FOR TRANSLATION OF WRITTEN MATERIALS--PENALTIES.--

A. A health facility shall provide language interpretation for a patient who either does not speak or does not understand English and who is requesting or receiving services at the health facility. The interpretation shall be

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1 provided for the patient at no additional cost to the patient.
2 The health facility shall arrange for interpretation to assist
3 the patient in communicating with staff at the health facility.
4 The health facility shall not require a patient to use a friend
5 or family member as an interpreter.

6 B. Interpretation may be provided on-site or, via
7 telephonic or other medium, off-site.

8 C. A health facility shall note a patient's
9 preferred language in the patient's health record.

10 D. A health facility shall provide a written
11 translation of any materials it provides in written form in
12 English for any language preferred by at least three percent of
13 the population served by that facility, according to the
14 facility's records indicating patients' preferred languages
15 made pursuant to Subsection C of this section. For any other
16 language, the facility shall provide for interpretation of
17 written documents in a patient's preferred language.

18 E. Violations of any provision of this section
19 shall be reported to the department. The department shall then
20 conduct an investigation to ascertain whether a violation has
21 occurred and, if so, issue a notice of violation to the person
22 operating the health facility. The department shall make
23 reasonable efforts to secure voluntary compliance with this
24 section. If these efforts are not successful, the department
25 may refer the matter to the attorney general as a possible

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1 violation of this section. Upon receipt of that report, the
2 attorney general shall promptly conduct an investigation to
3 determine whether grounds exist for formally finding a
4 violation. If the attorney general makes that finding, the
5 attorney general shall file an appropriate action against the
6 alleged violator in a court of competent jurisdiction. Upon
7 finding violations of any provisions of this section, a court
8 may impose a civil penalty of five hundred dollars (\$500) or
9 less, in the discretion of the court, for each day that the
10 violation remains uncorrected after the compliance date
11 stipulated in a notice of violation issued pursuant to this
12 section.

13 F. For the purposes of this section:

14 (1) "interpretation" means oral interpretation
15 of spoken English and sight translation of written documents by
16 a qualified medical interpreter or by a multilingual medical
17 staff member of the health facility who is fluent in a
18 patient's preferred language, providing a complete and accurate
19 interpretation, without altering, omitting or adding anything
20 to what is stated or written; and

21 (2) "preferred language" means a language that
22 a patient indicates as that in which the patient prefers to
23 communicate."