

LFC Requester:

Eric Chenier

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date 1/23/24

Bill No: SB142

Sponsor: Sen. Munoz
Short Title: FAMILY NOTIFICATION AT
BH FACILITIES

Agency Name and Code HSD-630
Number: _____
Person Writing Alicia Salazar
Phone: 505-795-3920 **Email** Alicia.salazar2@hsd.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
\$0	\$0	NA	NA

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
\$0	\$0	\$0	-	-

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0	\$0	\$0	NA	NA	NA

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Senate Bill 142 is an act that Requires residential behavioral health facilities to allow patients a chance to notify the patient’s family that they have been admitted to the facility; prescribes penalties for failures to do so.

FISCAL IMPLICATIONS

If civil penalties were enforced, it would amount to penalties of \$750 for the first violation and \$1000 for subsequent facilities. It is unclear who would enforce these penalties and how these funds would be collected, as well as what entity would receive these funds.

SIGNIFICANT ISSUES

Code of Federal Regulations (CFR) § 164.510: Uses and disclosures requiring an opportunity for the individual to agree or to object. A covered entity may use or disclose protected health information, provided that the individual is informed in advance of the use or disclosure and has the opportunity to agree to or prohibit or restrict the use or disclosure, in accordance with the applicable requirements of this section. The covered entity may orally inform the individual of and obtain the individual’s oral agreement or objection to a use or disclosure permitted by this section.

CFR 164.510(b)(2), (b)(3), or (b)(5) of this section, disclose to a family member, other relative, or a close personal friend of the individual, or any other person identified by the individual, the protected health information directly relevant to such person’s involvement with the individual’s health care or payment related to the individual’s health care. Thus, the patient has to consent for their family member to be notified that the patient has been admitted.

<https://www.govinfo.gov/content/pkg/CFR-2013-title45-voll/pdf/CFR-2013-title45-voll-sec164-510.pdf>

NM Statute: N.M. Stat. Ann. § 24-7A-6.2.

Age fourteen or older: A minor fourteen years of age or older may consent to medically necessary health care; provided the minor is: (1) living apart from their parents or legal guardian; or (2) the parent of a child. “Medically necessary health care” means clinical and rehabilitative, physical, mental, or behavioral health services that are: (1) essential to prevent, diagnose or treat medical conditions or to have functional capacity; (2) delivered in the amount, setting, duration and scope that is clinically appropriate to the needs of the minor; (3) provided within

professionally accepted standards of practice; and (4) required to meet the needs of the minor (rather than the convenience of the minor, health-care provider, or payer).

SB142 aligns with CRF § 164.510 and N.M. Stat. Ann. § 24-7A-6.2

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None, including no IT impact.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None

TECHNICAL ISSUES

The age of the “patient” needs to be defined.

The term “family” would need to be defined.

It is unclear who would enforce these civil penalties and how these penalties would be collected.

OTHER SUBSTANTIVE ISSUES

None

ALTERNATIVES

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

AMENDMENTS

None