SENATE BILL 14

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

INTRODUCED BY

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AN ACT

RELATING TO EXECUTIVE REORGANIZATION; AMENDING, REPEALING,
ENACTING AND RECOMPILING SECTIONS OF THE NMSA 1978 TO CONFORM
LAWS TO THE FUNCTIONS, POWERS AND DUTIES OF THE HEALTH CARE
AUTHORITY AND OTHER STATE AGENCIES Affected BY THE CREATION OF
THE AUTHORITY.

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

SECTION 1. Section 9-8-1 NMSA 1978 (being Laws 1977,
Chapter 252, Section 1, as amended) is amended to read:

"9-8-1. SHORT TITLE.--Chapter 9, Article 8 NMSA 1978 may
be cited as the "Health Care Authority [Department] Act"."

SECTION 2. Section 9-8-2 NMSA 1978 (being Laws 1977,
Chapter 252, Section 2, as amended) is amended to read:

"9-8-2. DEFINITIONS.--As used in the Health Care
Authority [Department] Act:

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A. "[department] authority" means the health care authority [department]; and

B. "secretary" means the secretary of health care authority."

SECTION 3. Section 9-8-3 NMSA 1978 (being Laws 1977, Chapter 252, Section 3, as amended) is amended to read:

"9-8-3. PURPOSE.--The purpose of the Health Care Authority [Department] Act is to establish a single, unified department to administer laws and exercise functions relating to health facility licensure and health care purchasing and regulation."

SECTION 4. Section 9-8-4 NMSA 1978 (being Laws 1977, Chapter 252, Section 4, as amended) is amended to read:

"9-8-4. [DEPARTMENT] AUTHORITY ESTABLISHED.--[A.] The "health care authority [department]" is created in the executive branch. The [department] authority is a cabinet department and consists of:

[1] A. the office of the secretary of health care authority;

[2] B. the administrative services division;

[3] C. the information technology division;

[4] D. the behavioral health services division;

[5] E. the developmental disabilities division;

[6] F. the health improvement division;

[7] G. the medical assistance division;
H. the state health benefits division;

I. the child support enforcement division;

and

J. the income support division.

B. All references in the law to the behavioral health services division of the department of health or to the mental health division of the department of health in Sections 29-11-1 through 29-11-7 NMSA 1978 or to the department of health in Sections 43-2-1.1 through 43-2-23 NMSA 1978 shall be construed as referring to the health care authority department.

SECTION 5. Section 9-8-5 NMSA 1978 (being Laws 1977, Chapter 252, Section 6, as amended) is amended to read:

"9-8-5. SECRETARY OF HEALTH CARE AUTHORITY--

APPOINTMENT.--

A. The administrative head of the health care authority [department] is the "secretary of health care authority", who shall be appointed by the governor with the consent of the senate and who shall serve in the executive cabinet.

B. An appointed secretary shall serve and have all of the duties, responsibilities and authority of that office during the period of time prior to final action by the senate confirming or rejecting the appointed secretary's appointment."

SECTION 6. Section 9-8-6 NMSA 1978 (being Laws 1977,
Chapter 252, Section 7, as amended) is amended to read:

"9-8-6. SECRETARY--DUTIES AND GENERAL POWERS.--

   A. The secretary is responsible to the governor for
the operation of the [department] authority. It is the
secretary's duty to manage all operations of the [department]
authority and to administer and enforce the laws with which the
secretary or the [department] authority is charged.

   B. To perform duties of office, the secretary has
every power expressly enumerated in the laws, whether granted
to the secretary or the [department] authority or any division
of the [department] authority, except where authority conferred
upon any division is explicitly exempted from the secretary's
authority by statute. In accordance with these provisions, the
secretary shall:

      (1) except as otherwise provided in the Health
Care Authority [Department] Act, exercise general supervisory
and appointing authority over all [department] authority
employees, subject to any applicable personnel laws and rules;

      (2) delegate authority to subordinates as the
secretary deems necessary and appropriate, clearly delineating
such delegated authority and the limitations thereto;

      (3) organize the [department] authority into
those organizational units the secretary deems will enable it
to function most efficiently, subject to any provisions of law
requiring or establishing specific organizational units;
(4) within the limitations of available appropriations and applicable laws, employ and fix the compensation of those persons necessary to discharge the secretary's duties;

(5) conduct background checks on [department] authority employees and prospective [department] authority employees that have or will have access to federal tax information; provided that:

   (a) local law enforcement agency criminal history record checks shall be conducted on all employees, prospective employees, contractors, prospective contractors, subcontractors and prospective subcontractors with access to federal tax information;

   (b) record checks for any identified arrests shall be conducted through local law enforcement agencies in jurisdictions where the subject has lived, worked or attended school within the last five years preceding the record check;

   (c) federal bureau of investigation fingerprinting shall be conducted on all employees, prospective employees, contractors, prospective contractors, subcontractors and prospective subcontractors with access to federal tax information;

   (d) for the purpose of conducting a national agency background check, the [department] authority
shall submit to the department of public safety and the federal bureau of investigation a fingerprint card for each of the following personnel who have or will have access to federal tax information: 1) employees; 2) prospective employees; 3) contractors; 4) prospective contractors; 5) subcontractors; and 6) prospective subcontractors;

(e) the [department] authority shall conduct a check for eligibility to legally work as a citizen or legal resident of the United States on all employees, prospective employees, contractors, prospective contractors, subcontractors and prospective subcontractors with access to federal tax information. The [department] authority shall complete a citizenship or residency check for each new employee and any employee with expiring employment eligibility and shall document and monitor the employee's citizenship or residency status for continued compliance;

(f) criminal history records obtained by the [department] authority pursuant to the provisions of this paragraph and the information contained in those records are confidential, shall not be used for any purpose other than conducting background checks for the purpose of determining eligibility for employment and shall not be released or disclosed to any other person or agency except pursuant to a court order or with the written consent of the person who is the subject of the records;
(g) a person who releases or discloses criminal history records or information contained in those records in violation of the provisions of this paragraph is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978;

(h) the secretary shall adopt and promulgate rules to establish procedures to provide for background checks; provided that background checks shall not be evaluated for any purpose other than a person's authority-related activities, and criteria according to which background checks are evaluated, for all present and prospective personnel identified in the provisions of this paragraph;

(i) contractors, prospective contractors, subcontractors and prospective subcontractors shall bear any costs associated with ordering or conducting background checks pursuant to this paragraph; and

(j) [a department] an authority employee or prospective [department] authority employee who is denied employment or whose employment is terminated based on information obtained in a background check shall be entitled to review the information obtained pursuant to this paragraph and to appeal the decision;

(6) take administrative action by issuing orders and instructions, not inconsistent with the law, to
assure implementation of and compliance with the provisions of law for whose administration or execution the secretary is responsible and to enforce those orders and instructions by appropriate administrative action in the courts;

(7) conduct research and studies that will improve the operations of the [department] authority and the provision of services to the citizens of the state;

(8) provide courses of instruction and practical training for employees of the [department] authority and other persons involved in the administration of programs with the objective of improving the operations and efficiency of administration;

(9) prepare an annual budget of the [department] authority;

(10) provide cooperation, at the request of heads of administratively attached agencies, in order to:

   (a) minimize or eliminate duplication of services and jurisdictional conflicts;

   (b) coordinate activities and resolve problems of mutual concern; and

   (c) resolve by agreement the manner and extent to which the [department] authority shall provide budgeting, recordkeeping and related clerical assistance to administratively attached agencies; and

(11) appoint, with the governor's consent, a
"director" for each division. These appointed positions are exempt from the provisions of the Personnel Act. Persons appointed to these positions shall serve at the pleasure of the secretary, except as provided in Section 9-8-9 NMSA 1978.

C. The secretary may apply for and receive, with the governor's approval, in the name of the department authority, any public or private funds, including United States government funds, available to the department authority to carry out its programs, duties or services.

D. Where functions of departments overlap or a function assigned to one department could better be performed by another department, the secretary may recommend appropriate legislation to the next session of the legislature for its approval.

E. The secretary may make and adopt such reasonable procedural rules as may be necessary to carry out the duties of the department authority and its divisions. No rule promulgated by the director of any division in carrying out the functions and duties of the division shall be effective until approved by the secretary unless otherwise provided by statute. Unless otherwise provided by statute, no rule affecting any person or agency outside the department authority shall be adopted, amended or repealed without a public hearing on the proposed action before the secretary or a hearing officer designated by the secretary. The public hearing shall be held...
in Santa Fe unless otherwise permitted by statute. Notice of
the subject matter of the rule, the action proposed to be
taken, the time and place of the hearing, the manner in which
interested persons may present their views and the method by
which copies of the proposed rule or proposed amendment or
repeal of an existing rule may be obtained shall be published
once at least thirty days prior to the hearing date in a
newspaper of general circulation and mailed at least thirty
days prior to the hearing date to all persons who have made a
written request for advance notice of hearing.

F. In the event the secretary anticipates that
adoption, amendment or repeal of a rule will be required by a
cancellation, reduction or suspension of federal funds or order
by a court of competent jurisdiction:

(1) if the secretary is notified by
appropriate federal authorities at least sixty days prior to
the effective date of such cancellation, reduction or
termination of federal funds, the [department] authority is
required to promulgate rules through the public hearing process
to be effective on the date mandated by the appropriate federal
authority; or

(2) if the secretary is notified by
appropriate federal authorities or court less than sixty days
prior to the effective date of such cancellation, reduction or
suspension of federal funds or court order, the [department]
authority is authorized without a public hearing to promulgate
interim rules effective for a period not to exceed ninety days.
Interim rules shall not be promulgated without first providing
a written notice twenty days in advance to providers of medical
or behavioral health services and beneficiaries of [department]
authority programs. At the time of the promulgation of the
interim rules, the [department] authority shall give notice of
the public hearing on the final rules in accordance with
Subsection E of this section.

G. If the secretary certifies to the secretary of
finance and administration and gives contemporaneous notice of
such certification through the human services register that the
[department] authority has insufficient state funds to operate
any of the programs it administers and that reductions in
services or benefit levels are necessary, the secretary may
engage in interim rulemaking. Notwithstanding any provision to
the contrary in the State Rules Act, interim rulemaking shall
be conducted pursuant to Subsection E of this section, except:

(1) the period of notice of public hearing
shall be fifteen days;

(2) the [department] authority shall also send
individual notices of the interim rulemaking and of the public
hearing to affected providers and beneficiaries;

(3) rules promulgated pursuant to the
provisions of this subsection shall be in effect not less than
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five days after the public hearing;

(4) rules promulgated pursuant to the provisions of this subsection shall not be in effect for more than ninety days; and

(5) if final rules are necessary to replace the interim rules, the [department] authority shall give notice of intent to promulgate final rules at the time of notice [herein]. The final rules shall be promulgated not more than forty-five days after the public hearing and filed in accordance with the State Rules Act.

H. At the time of the promulgation of the interim rules, the [department] authority shall give notice of the public hearing on the final rules in accordance with Subsection E of this section.

I. The secretary shall ensure that any behavioral health services, including mental health and substance abuse services, provided, contracted for or approved are in compliance with the requirements of Section [9-7-6.4] 24A-3-1 NMSA 1978.

J. All rules shall be filed in accordance with the State Rules Act."

SECTION 7. Section 9-8-7 NMSA 1978 (being Laws 1977, Chapter 252, Section 8, as amended) is amended to read: "9-8-7. ORGANIZATIONAL UNITS OF [DEPARTMENT] AUTHORITY--POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO INFORMATION.--

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Those organizational units of the [department] authority and the officers of those units specified by law shall have all of the powers and duties enumerated in the specific laws involved. However, the carrying out of those powers and duties shall be subject to the direction and supervision of the secretary, and the secretary shall retain the final decision-making authority and responsibility for the administration of any such laws as provided in Subsection B of Section 9-8-6 NMSA 1978. The [department] authority shall have access to all records, data and information of other state departments, agencies and institutions, including its own organizational units, not specifically held confidential by law."

SECTION 8. Section 9-8-7.1 NMSA 1978 (being Laws 2007, Chapter 325, Section 4, as amended) is amended to read:

"9-8-7.1. BEHAVIORAL HEALTH SERVICES DIVISION--POWERS AND DUTIES OF THE [DEPARTMENT] AUTHORITY.--Subject to appropriation, the [department] authority shall:

A. contract for behavioral health treatment and support services, including mental health, alcoholism and other substance abuse services;

B. establish standards for the delivery of behavioral health services, including quality management and improvement, performance measures, accessibility and availability of services, utilization management, credentialing and recredentialing, rights and responsibilities of providers,
preventive behavioral health services, clinical treatment and evaluation and the documentation and confidentiality of client records;

C. ensure that all behavioral health services, including mental health and substance abuse services, that are provided, contracted for or approved are in compliance with the requirements of Section [9-7-6.4] 24A-3-1 NMSA 1978;

D. assume responsibility for and implement adult mental health and substance abuse services in the state in coordination with the children, youth and families department;

E. create, implement and continually evaluate the effectiveness of a framework for targeted, individualized interventions for persons who are incarcerated in a county or municipal correctional facility and adult and juvenile offenders who have behavioral health diagnoses, which framework shall address those persons' behavioral health needs while they are incarcerated and connect them to resources and services immediately upon release;

F. establish criteria for determining individual eligibility for behavioral health services; and

G. maintain a management information system in accordance with standards for reporting clinical and fiscal information."

SECTION 9. Section 9-8-7.2 NMSA 1978 (being Laws 2013, Chapter 54, Section 9, as amended) is amended to read:
"9-8-7.2. COOPERATION WITH THE NEW MEXICO HEALTH INSURANCE EXCHANGE.--The medical assistance division of the [department] authority shall cooperate with the New Mexico health insurance exchange to share information and facilitate transitions in enrollment between the exchange and medicaid."

SECTION 10. Section 9-8-8 NMSA 1978 (being Laws 1977, Chapter 252, Section 9, as amended) is amended to read:

"9-8-8. ADMINISTRATIVELY ATTACHED AGENCIES.--The following agencies are administratively attached to the [department] authority:

A. the commission on the status of women; and
B. the group benefits committee [and
C. the New Mexico health policy commission]."

SECTION 11. Section 9-8-9 NMSA 1978 (being Laws 1977, Chapter 252, Section 10, as amended) is amended to read:

"9-8-9. DIRECTORS.--The secretary shall appoint with the approval of the governor "directors" of divisions established within the [department] authority and a director of communications. The positions so appointed are exempt from the Personnel Act."

SECTION 12. Section 9-8-10 NMSA 1978 (being Laws 1977, Chapter 252, Section 11, as amended) is amended to read:

"9-8-10. BUREAUS--CHIEFS.--The secretary shall establish within each division such bureaus as the secretary deems necessary to carry out the provisions of the Health Care
Authority [Department] Act. The secretary shall employ a chief to be administrative head of any such bureau. The chief and all subsidiary employees of the [department] authority shall be covered by the Personnel Act unless otherwise provided by law."

SECTION 13. Section 9-8-11 NMSA 1978 (being Laws 1977, Chapter 252, Section 12, as amended) is amended to read:

"9-8-11. ADVISORY COMMITTEES.--

A. The governor shall appoint advisory committees to the [department's] authority's income support division and may appoint other advisory committees as needed. Creation of the advisory committees shall be in accordance with the provisions of the Executive Reorganization Act. If the existence of a committee, representational membership requirements or other matters are required or specified under any federal law, regulation [rule] or order as a condition of receiving federal funding for a particular program administered by the [department] authority, the governor shall comply with those requirements in the creation of the advisory committee.

B. All members of the advisory committees appointed under the authority of this section [shall] are entitled to receive as their sole remuneration for service as a member those amounts authorized under the Per Diem and Mileage Act."

SECTION 14. Section 9-8-12 NMSA 1978 (being Laws 1977, Chapter 252, Section 13, as amended) is amended to read:

"9-8-12. COOPERATION WITH THE FEDERAL GOVERNMENT--
AUTHORITY OF SECRETARY--SINGLE STATE AGENCY STATUS.--

A. The [department] authority is authorized to cooperate with the federal government in the administration of health care and human services programs in which financial or other participation by the federal government is authorized or mandated under federal laws, regulations [rules] or orders. The secretary may enter into agreements with agencies of the federal government to implement these health care or human services programs subject to availability of appropriated state funds and any provisions of state laws applicable to such agreements or participation by the state.

B. The governor or the secretary may by appropriate order designate the [department] authority or any organizational unit of the [department] authority as the single state agency for the administration of any health care or human services program when such designation is a condition of federal financial or other participation in the program under applicable federal law, regulation [rule] or order. Whether or not a federal condition exists, the governor may designate the [department] authority or any organizational unit of the [department] authority as the single state agency for the administration of any health care or human services program. No designation of a single state agency under the authority granted in this section shall be made in contravention of state law."
SECTION 15. Section 10-7B-2 NMSA 1978 (being Laws 1989, Chapter 231, Section 2, as amended) is amended to read:

"10-7B-2. DEFINITIONS.--As used in the Group Benefits Act:

A. "committee" means the group benefits committee;
B. "director" means the director of the [risk management division of the general services department] state health benefits division of the health care authority;
C. "employee" means a salaried officer, employee or legislator of the state; a salaried officer or an employee of a local public body; or an elected or appointed supervisor of a soil and water conservation district;
D. "local public body" means any New Mexico [incorporated] municipality, county or school district;
E. "professional claims administrator" means any person or legal entity that has at least five years of experience handling group benefits claims, as well as such other qualifications as the director may determine from time to time with the committee's advice;
F. "small employer" means a person having for-profit or nonprofit status that employs an average of fifty or fewer persons over a twelve-month period; and
G. "state" or "state agency" means the state of New Mexico or any of its branches, agencies, departments, boards, instrumentalities or institutions."
SECTION 16. Section 10-7B-6 NMSA 1978 (being Laws 1989, Chapter 231, Section 6, as amended) is amended to read:
"10-7B-6. STATE EMPLOYEES GROUP BENEFITS SELF-INSURANCE PLAN--AUTHORIZATION--LOCAL PUBLIC BODY PARTICIPATION. --
   A. The [risk management] state health benefits division of the [general services department] health care authority may, with the prior advice of the committee, establish and administer a group benefits self-insurance plan, providing life, vision, health, dental and disability coverages, or any combination of such coverages, for employees of the state and of participating local public bodies. Any such group benefits self-insurance plan shall afford coverage for employees' dependents at each employee's option. Any such group benefits self-insurance plan may consist of self-insurance or a combination of self-insurance and insurance; provided that particular coverages or risks may be fully insured, fully self-insured or partially insured and partially self-insured.
   B. The director, with the advice of the committee, shall establish by [regulation or letter of administration] rule the types, extent, nature and description of coverages, the eligibility rules for participation, the deductibles, rates and all other matters reasonably necessary to carry on or administer a group benefits self-insurance plan established pursuant to Subsection A of this section.
C. The contribution of each participating state agency to the cost of any such group benefits self-insurance plan shall not exceed that percentage provided for state group benefits insurance plans as provided by law. The contribution of a participating local public body to the cost of any such group benefits self-insurance plan shall not exceed that percentage provided for local public body group benefits insurance plans as provided by law.

D. Except as provided in Subsection E of this section, public employees' contributions to the cost of any group benefits self-insurance plan may be deducted from their salaries and paid directly to the group self-insurance fund; provided that where risks are insured or reinsured, the director may authorize payment of the costs of such insurance or reinsurance directly to the insurer or reinsurer.

E. A legislator and the legislator's covered dependents and a soil and water conservation district supervisor [or] and the supervisor's covered dependents are eligible to participate in and receive benefits from the group benefits self-insurance plan if the legislator or supervisor pays monthly premiums in amounts that equal one hundred percent of the cost of the insurance. The premiums shall be paid directly to the group self-insurance fund; provided that where risks are insured or reinsured, the director may authorize payment of the premiums directly to the insurer or reinsurer.
F. Local public bodies and state agencies that are not participating in the state group benefits insurance plan or self-insurance plan may elect to participate in any group benefits self-insurance plan established pursuant to Subsection A of this section by giving written notice to the director on a date set by the director, which date shall not be later than ninety days prior to the date participation is to begin. The director shall determine an initial rate for the electing entity in accordance with a letter of administration setting forth written guidelines established by the director with the committee's advice. The initial rate shall be based on the claims experience of the electing entity's group for the three immediately preceding continuous years. If three years of continuous experience are not available, a rate fixed for the entity by the director with the committee's advice shall apply, and the electing entity's group shall be rerated on the first premium anniversary following the date one full year of experience for the group becomes available. Any such election may be terminated effective not earlier than June 30 of the third calendar year succeeding the year in which the election became effective or on any June 30 thereafter. Notice of termination shall be made in writing to the director not later than April 1 immediately preceding the June 30 on which participation will terminate. A reelection to participate in the plan following a termination [may] shall not be made.
effective for at least three full years following the effective date of termination.

G. As soon as practicable, the director with the committee's advice shall establish an experience rating plan for state agencies and local public bodies participating in any group benefits self-insurance plan created pursuant to Subsection A of this section. Rates applicable to state agencies and participating local public bodies shall be based on such experience rating plan. Any such experience rating plan may provide separate rates for individual state agencies and individual local public bodies or for such other experience centers as the director may determine."

SECTION 17. Section 10-7B-7 NMSA 1978 (being Laws 1989, Chapter 231, Section 7) is amended to read:

"10-7B-7. GROUP SELF-INSURANCE FUND CREATED.--

A. The "group self-insurance fund" is created. The fund and any income produced by the fund shall be held in trust for the benefit of participating state agencies and their employees and local public bodies and their employees, deposited in a segregated account and invested by the director with the advice of the committee. Money in the fund shall be used solely for the purposes of the fund and shall not be used to pay any general or special obligation or debt of the state, other than as authorized by this section. Balances in the fund in excess of amounts needed for the purposes of the fund shall
not be used to pay dividends or refunds, however described, to
individual public employees or their dependents, but may be
used, in the director's discretion, to reduce future
contributions, to provide additional benefits or as a reserve
to stabilize premiums.

B. The fund shall consist of money appropriated to
the fund, income from investment of the fund, employers'
contributions, employees' contributions, insurance or
reinsurance proceeds and other funds received by gift, grant,
bequest or otherwise for deposit in the fund, including but not
limited to refunds of amounts from prior state group life,
vision, dental, health and disability insurance plans, all of
which are hereby appropriated to and for the purposes of the
fund.

C. Disbursements from the fund shall be made by
warrant signed by the secretary of finance and administration
upon vouchers signed by the director. Lump sum disbursements
from the fund may be advanced, in the manner described in this
subsection, to a professional claims administrator to be used
to pay benefits. Such lump sum disbursements may be made not
more than weekly in advance. The professional claims
administrator shall keep any such lump sum advance in a
segregated account and shall hold the advance in trust for the
benefit of participating employees. On or before the last day
of each month, the professional claims administrator shall
prepare a request for replenishment of the lump sum disbursement in the amount actually paid out for benefits during the month. Not more than thirty days after the last day of each month, the professional claims administrator shall make and submit to the director a detailed report of expenditures of any such lump sum advance during the month.

D. Money in the fund may be used by and is hereby appropriated to the [risk management division of the general services department] state health benefits division of the health care authority:

(1) to purchase life, vision, health, dental and disability insurance, or any combination of these, for state and local public body employees participating in the group self-insurance plan and their covered dependents, from an insurance company determined to be the best responsible bidder, as defined in the Procurement Code, after:

   (a) requesting sealed proposals from three or more insurance agents licensed in New Mexico; or

   (b) requesting sealed proposals in accordance with the provisions of the Procurement Code;

(2) to contract with and pay one or more professional claims administrators;

(3) to contract with and pay private attorneys or law firms for advice and for defense of contested claims determinations;
(4) to contract with and pay qualified
independent actuaries, financial auditors and claims management
and procedures auditors;
(5) to contract with and pay consultants,
financial advisors and investment advisors for independent
consulting and advice;
(6) to pay reasonable investment commissions
and expenses;
(7) to make lump sum advances to any person or
firm acting as a professional claims administrator, such
advances to be used exclusively to pay benefits to
participating employees;
(8) to pay benefits to or for participating
employees and their dependents;
(9) to pay any other costs and expenses
incurred in carrying out this section; and
(10) as otherwise provided by law.

E. The fund shall be maintained in actuarially
sound condition as evidenced by the annual written
certification of an actuary qualified for such work that as of
June 30 of the current year the fund was actuarially sound.

F. Annually on or before January 15, the director
shall submit to the legislature a report on any group self-
insurance plan created pursuant to Subsection A of Section [§
of the Group Benefits Act] 10-7B-6 NMSA 1978, a financial audit
of the fund and a claims management and procedures audit by a qualified claims auditor for the one-year period ending on June 30 immediately preceding the report. With respect to claims files, the claims audit may, in the director's discretion, be limited to a random sampling."

SECTION 18. Section 10-7C-6 NMSA 1978 (being Laws 1990, Chapter 6, Section 6, as amended) is amended to read:

"10-7C-6. BOARD CREATED--MEMBERSHIP--AUTHORITY.--

A. [There is created] The "board of the retiree health care authority" is created. The board shall be composed of not more than [twelve] thirteen members.

B. The board shall include:

(1) one member who is not employed by or on behalf of or contracting with an employer participating in or eligible to participate in the Retiree Health Care Act and who shall be appointed by the governor to serve at the pleasure of the governor;

(2) the educational retirement director or the educational retirement director's designee;

(3) one member to be selected by the [public school superintendents' association of] New Mexico coalition of school administrators;

(4) one member who is a teacher who is certified and teaching in elementary or secondary education to be selected by a committee composed of one person designated by
the New Mexico association of classroom teachers, one person
designated by the national education association of New Mexico
and one person designated by the American federation of teachers New Mexico;

(5) one member who is an eligible retiree of a public school and who is selected by the New Mexico association of educational retirees;

(6) the executive secretary of the public employees retirement association or the executive secretary's designee;

(7) one member who is an eligible retiree receiving a benefit from the public employees retirement association and who is selected by the retired public employees of New Mexico;

(8) one member who is an elected official or employee of a municipality participating in the Retiree Health Care Act and who is selected by the New Mexico municipal league;

(9) the state treasurer or the state treasurer's designee; [and]

(10) one member who is a classified state employee selected by the personnel board; and

(11) the director of the state benefits division of the health care authority.

C. The board, in accordance with the provisions of .226491.1GLG
Paragraph (3) of Subsection D of Section 10-7C-9 NMSA 1978, shall include, if they qualify:

(1) one member who is an eligible retiree of an institution of higher education participating in the Retiree Health Care Act and who is selected by the New Mexico association of educational retirees; and

(2) one member who is an elected official or employee of a county participating in the Retiree Health Care Act and who is selected by the New Mexico association of counties.

D. Every member of the board shall serve at the pleasure of the party that selected that member.

E. The members of the board shall begin serving their positions on the board on the effective date of the Retiree Health Care Act or upon their selection, whichever occurs last, unless that member's corresponding position on the board has been eliminated pursuant to Subsection D of Section 10-7C-9 NMSA 1978.

F. The board shall elect from its membership a president, vice president and secretary.

G. The board may appoint such officers and advisory committees as it deems necessary. The board may enter into contracts or arrangements with consultants, professional persons or firms as may be necessary to carry out the provisions of the Retiree Health Care Act.
H. The members of the board and its advisory committees shall receive per diem and mileage as provided in the Per Diem and Mileage Act but shall receive no other compensation, perquisite or allowance."

SECTION 19. Section 13-7-3 NMSA 1978 (being Laws 1997, Chapter 74, Section 3) is amended to read:

"13-7-3. DEFINITIONS.--As used in the Health Care Purchasing Act:

A. "consolidated purchasing" means a single process for the procurement of and contracting for all health care benefits by the publicly funded insurance agencies in compliance with the Procurement Code and includes associated activities related to the procurement such as actuarial, cost containment, benefits consultation and analysis; and

B. "publicly funded health care agency" means the:

(1) [risk management] state health benefits division and the group benefits committee of the [general services department] health care authority;

(2) retiree health care authority;

(3) public school insurance authority; and

(4) publicly funded health care program of any public school district with a student enrollment in excess of sixty thousand students."

SECTION 20. Section 24-1-2 NMSA 1978 (being Laws 1973, Chapter 359, Section 2, as amended) is amended to read:
"24-1-2. DEFINITIONS.--As used in the Public Health Act:

A. "condition of public health importance" means an infection, a disease, a syndrome, a symptom, an injury or other threat that is identifiable on an individual or community level and can reasonably be expected to lead to adverse health effects in the community;

B. "crisis triage center" means a health facility that:

   (1) is licensed by the [department of health]

health care authority; and

   (2) provides stabilization of behavioral health crises and may include residential and nonresidential stabilization;

C. "department" means:

   (1) the department of health; [≠]

   (2) the children, youth and families department as to residential treatment centers [that serve persons up to twenty-one years of age], community mental health centers [that serve only persons up to twenty-one years of age], day treatment centers [that serve persons up to twenty-one years of age], shelter care homes and [those] outpatient facilities that are also community-based behavioral health facilities [serving] that serve only persons up to twenty-one years of age; or

   (3) the early childhood education and care
department for child care facilities;

D. "director" means the secretary;

E. "health care provider" means a person licensed
to provide health care in the ordinary course of business,
except as otherwise defined in the Public Health Act;

F. "health facility" means a public hospital;
profit or nonprofit private hospital; general or special
hospital; outpatient facility; crisis triage center;
freestanding birth center; adult daycare facility; nursing
home; intermediate care facility; assisted living facility;
boarding home not under the control of an institution of higher
learning; child care facility; shelter care home; diagnostic
and treatment center; rehabilitation center; infirmary;
community mental health center that serves both children and
adults or adults only; residential treatment center [that
serves persons up to twenty-one years of age], community mental
health center, [that serves only persons up to twenty-one years
of age and] day treatment center [that serves persons up to
twenty-one years of age], shelter care home and outpatient
facilities that are also community-based behavioral health
facilities that serve only persons up to twenty-one years of
age; or a health service organization operating as a
freestanding hospice or a home health agency. The designation
of [these entities] freestanding hospices and home health
agencies as health facilities is only for the purposes of
definition in the Public Health Act and does not imply that a
freestanding hospice or a home health agency is considered a
health facility for the purposes of other provisions of state
or federal laws. "Health facility" also includes those
facilities that, by federal regulation, must be licensed by the
state to obtain or maintain full or partial, permanent or
temporary federal funding. It does not include the offices and
treatment rooms of licensed private practitioners;

G. "screening" means a preliminary procedure,
including a test or examination, that:

(1) may require further investigation; and
(2) can identify [individuals] persons with
unrecognized health risk factors or asymptomatic disease
conditions in populations;

H. "secretary" means:

(1) the secretary of health;
(2) the secretary of children, youth and
families as to residential treatment centers [that serve
persons up to twenty-one years of age], community mental health
centers [that serve only persons up to twenty-one years of
age], day treatment centers [that serve persons up to twenty-
one years of age], shelter care homes and those outpatient
facilities that are also community-based behavioral health
facilities [serving] that serve only persons up to twenty-one
years of age; or

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1. The secretary of early childhood education and care for child care facilities; and

2. "test" means any diagnostic or investigative analysis or medical procedure that determines the presence of, absence of, or exposure to a condition of public health importance or its precursor in an individual.

SECTION 21. Section 24-1-3 NMSA 1978 (being Laws 1973, Chapter 359, Section 3, as amended) is amended to read:

"24-1-3. POWERS AND AUTHORITY OF DEPARTMENT.--The department has authority to:

A. receive such grants, subsidies, donations, allotments or bequests as may be offered to the state by the federal government or by any public or private foundation or other persons;

B. supervise the health and hygiene of the people of the state and identify ways to evaluate and address conditions of public health, especially epidemics, sources of mortality and other community health problems;

C. investigate, control and abate the causes of disease, especially epidemics, sources of mortality and other conditions of public health;

D. establish, maintain and enforce isolation and quarantine;

E. close any public place and forbid gatherings of people when necessary for the protection of the public health; and

F. close any public place and forbid gatherings of people when necessary for the protection of the public health; and
F. respond to public health emergencies and assist communities in recovery;
G. establish programs and adopt rules to prevent infant mortality, birth defects and morbidity;
H. prescribe the duties of public health nurses and school nurses;
I. provide educational programs and disseminate information on public health;
[J. maintain and enforce rules for the licensure of health facilities;
K. ensure the quality and accessibility of health care services and the provision of health care when health care is otherwise unavailable;
L. ensure a competent public health workforce;
[M. bring action in court for the enforcement of public health laws and rules and orders issued by the department;
[N. enter into agreements with other states to carry out the powers and duties of the department;
[O. cooperate and enter into contracts or agreements with the federal government or any other person to carry out the powers and duties of the department;
[P. cooperate and enter into contracts or agreements with Native American nations, tribes and pueblos and off-reservation groups to coordinate the provision of essential
public health services and functions;

[Q.] O. maintain and enforce rules for the control of conditions of public health importance;

[R.] P. maintain and enforce rules for immunization against conditions of public health importance;

[S.] Q. maintain and enforce such rules as may be necessary to carry out the provisions of the Public Health Act and to publish the rules;

[T.] R. supervise state public health activities, operate a dental public health program and operate state laboratories for the investigation of public health matters;

[U.] S. sue and, with the consent of the legislature, be sued;

[V.] T. regulate the practice of midwifery;

[W.] U. administer legislation enacted pursuant to Title 6 of the Public Health Service Act, as amended and supplemented;

[X.] V. inspect such premises or vehicles as necessary to ascertain the existence or nonexistence of conditions dangerous to public health or safety;

[Y.] W. request and inspect, while maintaining federal and state confidentiality requirements, copies of:

(1) medical and clinical records reasonably required for the department's quality assurance and quality improvement activities; and
(2) all medical and clinical records pertaining to the [individual] person whose death is the subject of inquiry by the department's mortality review activities; and

\[
Z_{r} X. \text{ do all other things necessary to carry out its duties.} \]

SECTION 22. Section 24-1-20 NMSA 1978 (being Laws 1973, Chapter 359, Section 20, as amended) is amended to read:

"24-1-20. RECORDS CONFIDENTIAL.--

A. The files and records of the department giving identifying information about [individuals] persons who have received or are receiving [from the department] treatment, diagnostic services or preventive care for diseases, disabilities or physical injuries from the department are confidential and are not open to inspection except:

(1) where permitted by rule of the department;

(2) as provided in Subsection [6] D of this section; and

(3) to the secretary of health [and environment] or to an employee of the [health and environment] department authorized by the secretary to obtain such information, but the information shall only be revealed for use in connection with a governmental function of the secretary or the authorized employee.

B. Both the secretary and the employees are subject
to the penalty contained in Subsection [F] G of this section if they release or use the information in violation of this section.

[C. All information voluntarily provided to the director or his secretary or the secretary's agent in connection with studies approved and designated by [him] the secretary as medical research [and approved by the secretary of health and environment], either conducted by or under the authority of the [director] secretary for the purpose of reducing the morbidity or mortality from any cause or condition of health, is confidential and shall be used only for the purposes of medical research. The information shall not be admissible as evidence in any action of any kind in any court or before any administrative proceeding or other action.

[D. The human services department] health care authority and the office of the state long-term care ombudsman shall have prompt access to all files and records in the possession of the [licensing and certification bureau of the] department that are related to any health facility investigation. Officers and employees of those agencies with such access are subject to the penalty in Subsection [F] G of this section if they release or use the information in violation of this section.

[E. The files and records of the department are subject to subpoena for use in any pending cause in any...
administrative proceeding or in any of the courts of the state, unless otherwise provided by law.

[F.] F. No person supplying information to the department for use in a research project or any cooperating person in a research project shall be subject to any action for damages or other relief as a result of that activity.

[F.] G. Any person who discloses confidential information in violation of this section is guilty of a petty misdemeanor."

SECTION 23. Section 24-14A-2 NMSA 1978 (being Laws 1989, Chapter 29, Section 2, as amended) is amended to read:

"24-14A-2. DEFINITIONS.--As used in the Health Information System Act:

A. "aggregate data" means data that are obtained by combining like data elements in a manner that precludes specific identification of a single client;

B. "data source" or "data provider" means a person that possesses health information, including the health care authority, any public or private sector licensed health care practitioner, primary care clinic, ambulatory surgery center, ambulatory urgent care center, ambulatory dialysis unit, home health agency, long-term care facility, hospital, pharmacy, third-party payer and any public entity that has health information;

C. "department" means the department of health;
D. "health information" or "health data" means any data relating to health care; health status, including environmental, social and economic factors; the health system; or health costs and financing;

E. "hospital" means any general or special hospital licensed by the [department] health care authority, whether publicly or privately owned;

F. "long-term care facility" means any skilled nursing facility or nursing facility licensed by the [department] health care authority, whether publicly or privately owned;

G. "record-level data" means a medical record that contains unique and nonaggregated data elements that relate to a single identifiable individual; and

H. "third-party payer" means any public or private payer of health care services and includes health maintenance organizations and health insurers."

SECTION 24. Section 24-14A-6 NMSA 1978 (being Laws 1989, Chapter 29, Section 6, as amended) is amended to read:

"24-14A-6. HEALTH INFORMATION SYSTEM--ACCESS.--

A. Access to data in the health information system shall be provided in accordance with [regulations] rules adopted by the department pursuant to the Health Information System Act.

B. A data provider may obtain data it has submitted
to the system, as well as aggregate data, but, except as
provided in Subsection D of this section, it shall not have
access to data submitted by another provider that are
limited only to that provider unless those data are
aggregated data and publicly disseminated by the department.
Except as provided in Subsection D of this section, in no event
may a data provider obtain data regarding an individual patient
except in instances where the data were originally submitted by
the requesting provider. Prior to the release of any data, in
any form, data sources shall be permitted the opportunity to
verify the accuracy of the data pertaining to that data source.
Data identified in writing as inaccurate shall be corrected
prior to the data's release. Time limits shall be set for the
submission and review of data by data sources, and penalties
shall be established for failure to submit and review the data
within the established time.

C. Any person may obtain any aggregate data
publicly disseminated by the department.

D. Through a secure delivery or transmission
process, the department may share record-level data with the
health care authority or a federal agency that is authorized to
collect, analyze or disseminate health information. The
department shall remove identifiable individual or provider
information from the record-level data prior to its disclosure
to the federal agency. In providing hospital information under
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an agreement or arrangement with a federal agency, the department shall ensure that any identifiable hospital information disclosed is necessary for the agency's authorized use and that its disclosure meets with state and federal privacy and confidentiality laws, rules and regulations."

SECTION 25. A new Section 24A-1-1 NMSA 1978 is enacted to read:

"24A-1-1. [NEW MATERIAL] SHORT TITLE.--Chapter 24A NMSA 1978 may be cited as the "Health Care Code"."

SECTION 26. A new Section 24A-1-2 NMSA 1978 is enacted to read:

"24A-1-2. [NEW MATERIAL] DEFINITIONS.--As used in the Health Care Code:

A. "authority" means the health care authority;
B. "crisis triage center" means a health facility that:
   (1) is licensed by the authority; and
   (2) provides stabilization of behavioral health crises and may include residential and nonresidential stabilization;
C. "health care provider" means a person licensed to provide health care in the ordinary course of business, except as otherwise defined in the Health Care Code;
D. "health facility" means a public hospital; profit or nonprofit private hospital; general or special
hospital; outpatient facility; crisis triage center;
freestanding birth center; adult daycare facility; nursing
home; intermediate care facility; assisted living facility;
boarding home not under the control of an institution of higher
learning; shelter care home; diagnostic and treatment center;
rehabilitation center; infirmary; community mental health
center that serves both children and adults or adults only; or
a health service organization operating as a freestanding
hospice or a home health agency. The designation of
freestanding hospices or home health agencies as health
facilities is only for the purposes of definition in the Health
Care Code and does not imply that a freestanding hospice or a
home health agency is considered a health facility for the
purposes of other provisions of state or federal laws. "Health
c facility" includes those facilities that by federal regulation
must be licensed by the state to obtain or maintain full or
partial, permanent or temporary federal funding. "Health
c facility" does not include the offices and treatment rooms of
licensed private practitioners; and

E. "secretary" means the secretary of health care
authority."

SECTION 27. A new Section 24A-1-3 NMSA 1978 is enacted
to read:

"24A-1-3. [NEW MATERIAL] POWERS AND DUTIES.--

A. The authority may:
(1) bring action in court for the enforcement of laws and rules pertaining to the authority's powers and duties;

(2) enter into joint powers agreements to carry out the powers and duties of the authority;

(3) cooperate and enter into contracts or agreements with the federal government or any other person to carry out the powers and duties of the authority;

(4) cooperate and enter into contracts or agreements with Native American nations, tribes and pueblos and off-reservation groups to coordinate the provision of essential physical, mental and behavioral health services and functions;

(5) adopt, promulgate and enforce such rules as may be necessary to carry out the provisions of the Health Care Code;

(6) sue and, with the consent of the legislature, be sued;

(7) request and inspect, while maintaining federal and state confidentiality requirements, copies of:

(a) medical and clinical records reasonably required for the authority's quality assurance and quality improvement activities; and

(b) medical and clinical records pertaining to a person whose death is the subject of inquiry by the department of health's mortality review activities; and
(8) do all other things necessary to carry out its duties as defined by law and rules promulgated in accordance with law.

B. The authority shall:

(1) promulgate and enforce rules for the licensure of health facilities under its jurisdiction;

(2) license and inspect health facility premises to ensure compliance with laws, rules and public safety; and

(3) carry out such other duties as provided by law.

C. The authority and the office of the state long-term care ombud shall have prompt access to all files and records in the possession of the department of health that are related to any health facility investigation; provided that a person who discloses confidential information protected by federal or state law is guilty of a petty misdemeanor.

SECTION 28. A new Section 24A-1-4 NMSA 1978 is enacted to read:

"24A-1-4. [NEW MATERIAL] RECORDS CONFIDENTIAL.--

A. The files and records of the authority giving identifying information about persons who have received or are receiving from the authority treatment, diagnostic services or preventive care for diseases, disabilities or physical injuries are confidential and are not open to inspection except:
1. where permitted by rule of the authority;
2. as provided in Subsection B of this section; and
3. to the secretary or to an employee of the authority authorized by the secretary to obtain such information, but the information shall only be revealed for use in connection with a governmental function of the secretary or the authorized employee.

B. The files and records of the authority are subject to subpoena for use in a pending cause in an administrative proceeding or in any of the courts of the state, unless otherwise provided by law.

C. A person who discloses confidential information in violation of this section is guilty of a petty misdemeanor.

SECTION 29. Section 24-1-5 NMSA 1978 (being Laws 1973, Chapter 359, Section 5, as amended) is recompiled as Section 24A-1-5 NMSA 1978 and is amended to read:

"24A-1-5. LICENSURE OF HEALTH FACILITIES--HEARINGS--APPEALS.--

A. A health facility shall not be operated without a license issued by the [department] authority. If a health facility is found to be operating without a license, in order to protect human health or safety, the secretary may issue a cease-and-desist order. The health facility may request a hearing that shall be held in the manner provided in this act.
section. The [department] authority may also proceed pursuant
to the Health Facility Receivership Act.

B. The [department] authority is authorized to make
inspections and investigations and to prescribe rules it deems
necessary or desirable to promote the health, safety and
welfare of persons using health facilities.

C. Except as provided in Subsection F of this
section, upon receipt of an application for a license to
operate a health facility, the [department] authority shall
promptly inspect the health facility to determine if it is in
compliance with all rules of the [department] authority.
Applications for hospital licenses shall include evidence that
the bylaws or rules of the hospital apply equally to
osteopathic and medical physicians. The [department] authority
shall consolidate the applications and inspections for a
hospital that also operates as a hospital-based primary care
clinic.

D. Upon inspection of a health facility, if the
[department] authority finds a violation of its rules, the
[department] authority may deny the application for a license,
whether initial or renewal, or it may issue a temporary
license. A temporary license shall not be issued for a period
exceeding one hundred twenty days, nor shall more than two
consecutive temporary licenses be issued.

E. A one-year nontransferable license shall be
issued to any health facility complying with all rules of the [department] authority. The license shall be renewable for successive one-year periods, upon filing of a renewal application, if the [department] authority is satisfied that the health facility is in compliance with all rules of the department or, if not in compliance with a rule, has been granted a waiver or variance of that rule by the [department] authority pursuant to procedures, conditions and guidelines adopted by rule of the [department] authority. Licenses shall be posted in a conspicuous place on the licensed premises [except that child care centers that receive no state or federal funds may apply for and receive from the department a waiver from the requirement that a license be posted or kept on the licensed premises].

F. A health facility that has been inspected and licensed by the [department] authority, that has received certification for participation in federal reimbursement programs and that has been fully accredited by a national accrediting organization approved by the federal centers for medicare and medicaid services or the [department] authority shall be granted a license renewal based on that accreditation. A freestanding birth center that has been inspected and licensed by the [department] authority and is accredited by the commission for accreditation of birth centers or its successor accreditation body shall be granted a license renewal based on
that accreditation. Health facilities receiving less than full accreditation by an approved accrediting body may be granted a license renewal based on that accreditation. License renewals shall be issued upon application submitted by the health facility upon forms prescribed by the [department] authority. This subsection does not limit in any way the [department's] authority's various duties and responsibilities under other provisions of [the Public Health Act or under any other subsection of this section] law, including any of the [department's] authority's responsibilities for the health and safety of the public.

G. The [department] authority may charge a reasonable fee not to exceed twelve dollars ($12.00) per bed for an inpatient health facility or three hundred dollars ($300) for any other health facility for each license application, whether initial or renewal, of an annual license or the second consecutive issuance of a temporary license. Fees collected shall not be refundable. All fees collected pursuant to licensure applications shall be deposited with the state treasurer for credit in a designated [department] authority recurring account for use in health facility licensure and certification operations.

H. The [department] authority may revoke or suspend the license of a health facility or may impose on a health facility an intermediate sanction and a civil monetary penalty.
provided in Section [24-1-5.2] 24A-1-6 NMSA 1978 after notice
and an opportunity for a hearing before a hearing officer
designated by the [department] authority to hear the matter
and, except for child care centers and facilities, may proceed
pursuant to the Health Facility Receivership Act upon a
determination that the health facility is not in compliance
with any rule of the [department] authority. If immediate
action is required to protect human health and safety, the
secretary may suspend a license or impose an intermediate
sanction pending a hearing, provided the hearing is held within
five working days of the suspension or imposition of the
sanction, unless waived by the licensee, and, except for child
care centers and facilities, may proceed ex parte pursuant to
the Health Facility Receivership Act.

I. The [department] authority shall schedule a
hearing pursuant to Subsection H of this section if the
[department] authority receives a request for a hearing from a
licensee:

(1) within ten working days after receipt by
the licensee of notice of suspension, revocation, imposition of
an intermediate sanction or civil monetary penalty or denial of
an initial or renewal application;

(2) within four working days after receipt by
the licensee of an emergency suspension order or emergency
intermediate sanction imposition and notice of hearing if the
licensee wishes to waive the early hearing scheduled and request a hearing at a later date; or

(3) within five working days after receipt of a cease-and-desist order.

J. The [department] authority shall also provide timely notice to the licensee of the date, time and place of the hearing, identity of the hearing officer, subject matter of the hearing and alleged violations.

[J-K] K. A hearing held pursuant to provisions of this section shall be conducted in accordance with adjudicatory hearing rules and procedures adopted by rule of the [department] authority. The licensee has the right to be represented by counsel, to present all relevant evidence by means of witnesses and books, papers, documents, records, files and other evidence and to examine all opposing witnesses who appear on any matter relevant to the issues. The hearing officer has the power to administer oaths on request of any party and issue subpoenas and subpoenas duces tecum prior to or after the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents, records, files and other evidence. Documents or records pertaining to abuse, neglect or exploitation of a resident, client or patient of a health facility or other documents, records or files in the custody of the [human services department] authority or the office of the
state long-term care [ombudsman] ombud at the aging and long-term services department that are relevant to the alleged violations are discoverable and admissible as evidence in any hearing.

[K] L. Any party may appeal the final decision of the [department] authority pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

[L] M. A complaint about a health facility received by the [department] authority pursuant to this section shall be promptly investigated and appropriate action shall be taken if substantiated. The [department] authority shall develop a health facilities protocol in conjunction with [the human services department] the protective services division of the children, youth and families department, the office of the state long-term care [ombudsman] ombud and other appropriate agencies to ensure the health, safety and rights of [individuals] persons in health facilities. The health facilities protocol shall require:

(1) cross-reference among agencies pursuant to this subsection of an allegation of abuse, neglect or exploitation;

(2) an investigation, within the strict priority time frames established by each protocol member's rules, of an allegation or referral of abuse, neglect or exploitation after the [department] authority has made a good
cause determination that abuse, neglect or exploitation occurred;

(3) an agency to share its investigative information and findings with other agencies, unless otherwise prohibited by law; and

(4) require the receiving agency to accept the information provided pursuant to Paragraph (3) of this subsection as potential evidence to initiate and conduct investigations.

[M. N.] A complaint received by the [department] authority pursuant to this section shall not be disclosed publicly in a manner as to identify any individuals or health facilities if upon investigation the complaint is unsubstantiated.

[N. O.] The name and information regarding the person making a complaint pursuant to this section shall not be disclosed absent the consent of the informant or a court order.

[O. Notwithstanding any other provision of this section, when there are reasonable grounds to believe that a child is in imminent danger of abuse or neglect while in the care of a child care facility, whether or not licensed, or upon the receipt of a report pursuant to Section 32A-4-3 NMSA 1978, the department shall consult with the owner or operator of the child care facility. Upon a finding of probable cause, the department shall give the owner or operator notice of its...
intent to suspend operation of the child care facility and
provide an opportunity for a hearing to be held within three
working days, unless waived by the owner or operator. Within
seven working days from the day of notice, the secretary shall
make a decision, and, if it is determined that any child is in
imminent danger of abuse or neglect in the child care facility,
the secretary may suspend operation of the child care facility
for a period not in excess of fifteen days. Prior to the date
of the hearing, the department shall make a reasonable effort
to notify the parents of children in the child care facility of
the notice and opportunity for hearing given to the owner or
operator.

P. Nothing contained in this section or in the
Public Health Act shall authorize either the secretary or the
department to make any inspection or investigation or to
prescribe any rules concerning group homes as defined in
Section 9-8-13 NMSA 1978 except as are reasonably necessary or
desirable to promote the health and safety of persons using
group homes."

SECTION 30. Section 24-1-5.2 NMSA 1978 (being Laws 1990,
Chapter 105, Section 2, as amended) is recompiled as Section
24A-1-6 NMSA 1978 and is amended to read:

"24A-1-6. HEALTH FACILITIES--INTERMEDIATE SANCTIONS--
CIVIL PENALTY."

A. Upon a determination that a health facility is
not in compliance with any licensing requirement of the [department] authority, the [department] authority, subject to the provisions of this section and Section [24-1-5] 24A-1-5 NMSA 1978, may:

(1) impose any intermediate sanction established by rule, including [but not limited to]:

(a) a directed plan of correction;

(b) facility monitors;

(c) denial of payment for new medicaid admissions to the facility;

(d) temporary management or receivership; and

(e) restricted admissions;

(2) assess a civil monetary penalty [with interest] for each day the facility is or was out of compliance. Civil monetary penalties shall not exceed a total of five thousand dollars ($5,000) per day. Penalties [and interest amounts] assessed [under] pursuant to this paragraph and recovered on behalf of the state shall be remitted to the [department in a recurring account in the state treasury for the sole purpose of funding the nonreimbursed cost of facility monitors, temporary management and health facility receiverships] current school fund as provided in Article 12, Section 4 of the constitution of New Mexico. The civil monetary penalties contained in this paragraph are cumulative.

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and may be imposed in addition to any other fines or penalties provided by law; and

(3) with respect to health facilities other than [childcare] child care centers or facilities, proceed pursuant to the Health Facility Receivership Act.

B. The secretary shall adopt and promulgate rules specifying the criteria for imposition of any intermediate sanction and civil monetary penalty. The criteria shall provide for more severe sanctions for a violation that results in any abuse, neglect or exploitation of residents, clients or patients as defined in the rules or that places one or more residents, clients or patients of a health facility at substantial risk of serious physical or mental harm.

C. The provisions of this section for intermediate sanctions and civil monetary penalties shall apply to certified nursing facilities except when a federal agency has imposed the same remedies, sanctions or penalties for the same or similar violations.

D. Rules adopted by the [department] authority shall permit sanctions pursuant to Paragraphs (1) and (2) of Subsection A of this section for a specific violation in a certified nursing facility if:

(1) the state statute or rule is not duplicated by a federal certification rule; or

(2) the [department] authority determines
intermediate sanctions are necessary if sanctions permitted pursuant to Paragraphs (1) and (2) of Subsection A of this section do not duplicate a sanction imposed under the authority of 42 U.S.C. 1395 or 1396 for a particular deficiency.

E. A health facility is liable for the reasonable costs of a directed plan of correction, facility monitors, temporary management or receivership imposed pursuant to this section and Section [24-1-5] 24A-1-5 NMSA 1978. The [department] authority may take all necessary and appropriate legal action to recover these costs from a health facility. All money recovered from a health facility pursuant to this subsection shall be paid into the general fund."

SECTION 31. Section 24-1-5.8 NMSA 1978 (being Laws 2003, Chapter 426, Section 1) is recompiled as Section 24A-1-7 NMSA 1978 and is amended to read:

"24A-1-7. LEGISLATIVE FINDINGS--DEFINITIONS--LICENSING REQUIREMENTS FOR CERTAIN HOSPITALS.--

A. The legislature finds that:

(1) acute care general hospitals throughout New Mexico operate emergency departments and provide vital emergency medical services to patients requiring immediate medical care; and

(2) federal and state laws require hospitals that operate an emergency department to provide certain emergency services and care to any person, regardless of that
person's ability to pay. Accordingly, these hospitals encounter significant financial losses when treating uninsured or underinsured patients.

B. As used in this section:

(1) "limited service hospital" means a hospital that limits admissions according to medical or surgical specialty, type of disease or medical condition, or a hospital that limits its inpatient hospital services to surgical services or invasive diagnostic and treatment procedures; provided, however, that a "limited service hospital" does not include:

(a) a hospital licensed by the [department] authority as a special hospital;

(b) an eleemosynary hospital that does not bill patients for services provided; or

(c) a hospital that has been granted a license prior to January 1, 2003; and

[(2) "department" means the department of health; and

[(3)][(2)] "low-income patient" means a patient whose family or household income does not exceed two hundred percent of the federal poverty level.

C. The [department] authority shall issue a license to an acute-care or general hospital or a limited services hospital that agrees to:
(1) continuously maintain and operate an emergency department that provides emergency medical services as determined by the [department] authority;

(2) participate in the medicaid, medicare and county indigent care programs;

(3) require a physician owner to disclose a financial interest in the hospital before referring a patient to the hospital;

(4) comply with the same quality standards applied to other hospitals;

(5) provide emergency services and general health care to nonpaying patients and low-income reimbursed patients in the same proportion as the patients are treated in acute-care general hospitals in the local community, as determined by the [department] authority in consultation with a statewide hospital organization, the government of the county in which the facilities are located and the affected hospitals; provided that:

   (a) a hospital may appeal the determination of the [department pursuant to] authority as a final agency decision as provided in Section 39-3-1.1 NMSA 1978; and

   (b) the annual cost of the care required to be provided pursuant to this paragraph shall not exceed an amount equal to five percent of the hospital's annual revenue;
and

(6) require a health care provider to disclose a financial interest before referring a patient to the hospital."

SECTION 32. Section 24-1-5.9 NMSA 1978 (being Laws 2004, Chapter 44, Section 2 and Laws 2004, Chapter 50, Section 2) is recompiled as Section 24A-1-8 NMSA 1978 and is amended to read:

"24A-1-8. REPORTING REQUIREMENTS.--

A. A hospital, a long-term care facility or a primary care clinic shall provide information sufficient for the [secretary] authority to make a reasonable assessment based on clear and convincing evidence of its financial viability, sustainability and potential impact on health care access. Information provided to the [secretary] authority pursuant to this section shall remain confidential, is exempt from the Inspection of Public Records Act, unless disclosure or use is mandated by the state or federal law, and shall not be used as a basis for suspension, revocation or issuance of a license. The hospital, long-term care facility or primary care clinic shall provide this information to the [secretary] authority at least sixty days before the anticipated effective date of a proposed licensure, closure, disposition or acquisition of the hospital, the long-term care facility or the primary care clinic or its essential services.

B. The secretary shall issue a notice of finding to
the facility within sixty days of receiving information from
the facility.

C. For the purposes of this section:

(1) "hospital" means a facility providing
emergency or urgent care, inpatient medical care and nursing
care for acute illness, injury, surgery or obstetrics.
"Hospital" includes a facility licensed by the [department
authority as a critical access hospital, general hospital,
long-term acute care hospital, psychiatric hospital,
rehabilitation hospital, limited services hospital and special
hospital;

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

(3) "primary care clinic" means a community-
based clinic that provides the first level of basic or general
health care for [an individual's] a person's health needs,
including diagnostic and treatment services and, if integrated
into the clinic's service array, mental health services."

SECTION 33. Section 24-1-5.10 NMSA 1978 (being Laws
2004, Chapter 47, Section 1) is recompiled as Section 24A-1-9
NMSA 1978 and is amended to read:

"24A-1-9. FEDERAL PARTICIPATION REQUIRED--EXCEPTION.--
A. Except as provided in Subsection B of this
section, all programs, clinics, hospitals and other health-

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related centers and entities, including those identified by the [human services department] authority pursuant to Paragraph (3) of Subsection A of Section 27-2-12.13 NMSA 1978, that are eligible under Section 340B of the federal Public Health Service Act, including hospitals and clinics licensed under the state [Public Health Act] Health Care Code, shall participate in that Section 340B federal prescription drug price discount program.

B. If an entity described in Subsection A of this section can demonstrate to the satisfaction of the [department of health] authority that the prescription drug price discount it receives other than through the Section 340B program results in greater savings to the state, the entity may be granted an exception to the requirements of this section."

SECTION 34. Section 24-1-5.12 NMSA 1978 (being Laws 2023, Chapter 109, Section 1) is recompiled as Section 24A-1-10 NMSA 1978 and is amended to read:

"24A-1-10. RURAL EMERGENCY HOSPITAL LICENSURE--LICENSING REQUIREMENTS.--

A. The [department] authority shall promulgate rules to establish a rural emergency hospital license that enables certain hospitals to apply to receive federal health care reimbursement as rural emergency hospitals.

B. The [department] authority shall only issue a rural emergency hospital license to a health facility that:
(1) on December 27, 2020, was:

(a) designated as a critical access
hospital by the centers for medicare and medicaid services; or

(b) licensed as a hospital with less
than fifty licensed beds and located in a county in a rural
area as defined in Section 1886(d)(2)(D) or Section
1886(d)(8)(E) of the federal Social Security Act;

(2) provides rural emergency hospital services
in the facility twenty-four hours per day and is staffed
twenty-four hours per day, seven days per week with a
physician, nurse practitioner, clinical nurse specialist or
physician assistant;

(3) has a transfer agreement in effect with a
level [I] 1 or level [II] 2 trauma center;

(4) does not have an annual average patient
length of stay over twenty-four hours; and

(5) meets any other requirements that the
[department] authority finds necessary to implement state
licensure and satisfy centers for medicare and medicaid
services requirements for reimbursement as a rural emergency
hospital.

C. A health facility that applies to the
[department] authority for licensure as a rural emergency
hospital shall include with the licensure application:

(1) an action plan for initiating rural
emergency hospital services, including a detailed transition plan that lists the specific services that the facility will retain, modify, add and discontinue;

(2) a description of services that the facility intends to provide on an outpatient basis; and

(3) any other information required by rules of the [department] authority.

D. A rural emergency hospital shall not have inpatient beds, but a rural emergency hospital may have a unit that is a distinct part of the hospital that is licensed as a skilled nursing facility and provides post-hospital extended care services.

E. For the purposes of this section,

(1) "department" means the department of health; and

(2) "rural emergency hospital" means a health facility that provides emergency and observational care and meets the licensure requirements outlined in Subsection B of this section."

SECTION 35. Section 24-1-37 NMSA 1978 (being Laws 2015, Chapter 155, Section 1) is recompiled as Section 24A-1-11 NMSA 1978 and is amended to read:

"24A-1-11. LAY CAREGIVER--AFTERCARE--DESIGNATION.--

A. A hospital shall provide each patient or the patient's legal guardian with an opportunity to designate one
lay caregiver following the patient's admission into a hospital and before the patient's discharge to the patient's residence.

B. As soon as practicable, a hospital shall attempt to consult with a designated lay caregiver to prepare the lay caregiver to provide aftercare. The hospital shall provide the lay caregiver with a discharge plan for the patient that describes the patient's aftercare needs. This discharge plan:

    (1) may include, but is not limited to:

        (a) culturally competent training on how to provide care and tasks;

        (b) medication management guidelines;

        (c) aftercare guidelines; and

        (d) an identification of tasks that the discharging health care provider specifies;

    (2) shall reflect the active engagement of a patient or lay caregiver in the discharge planning process and incorporate a patient's goals and preferences as much as possible; and

    (3) shall educate a lay caregiver in a manner that is consistent with current accepted practices and is based on an assessment of the lay caregiver's learning needs.

C. A hospital shall allow a patient to change the patient's designation of a lay caregiver in the event that the originally designated lay caregiver becomes unavailable, unwilling or unable to care for the patient.
D. Designation of an individual as a lay caregiver pursuant to this section does not obligate that individual person to accept the role of lay caregiver for the patient.

E. The provisions of this section shall not be construed to require a patient to designate a lay caregiver.

F. In the event that a patient or a patient's legal guardian declines to designate a lay caregiver pursuant to this section, a hospital shall promptly document this refusal to designate a lay caregiver in the patient's medical record.

G. A hospital shall not allow the process of appointing or refusal or failure to appoint a lay caregiver for a patient to interfere with, delay or otherwise affect the services that the hospital provides to a patient.

H. In the event that a hospital is unable to contact a designated lay caregiver, this lack of contact shall not interfere with or otherwise affect an appropriate discharge of the patient.

I. The provisions of this section shall not be construed to:

   (1) create a private right of action against a hospital, hospital employee, contractor having a contractual relationship with a hospital or duly authorized agent of a hospital; or

   (2) remove the obligation of a third-party payer to cover any health care item or service that the third-
party payer is obligated to provide to a patient pursuant to the terms of a valid agreement, insurance policy, plan or certificate of coverage or health maintenance organization contract.

J. A hospital, hospital employee, contractor having a contractual relationship with a hospital or duly authorized agent of a hospital shall not be held liable in any way for an act or omission of a lay caregiver.

K. As used in this section:

(1) "aftercare" means assistance provided in a private home by a designated lay caregiver to a patient after the patient's discharge from a hospital. "Aftercare" includes exclusively those tasks related to a patient's condition at the time of discharge that do not require the lay caregiver performing the tasks to be a licensed, certified or otherwise authorized health care provider;

(2) "discharge" means a patient's exit or release from a hospital to that patient's residence following an inpatient stay;

(3) "hospital" means a health facility licensed as a general acute hospital by the [department of health] authority;

(4) "lay caregiver" means [an individual] a person who is eighteen years of age or older, who has been designated as a lay caregiver pursuant to this section and who
provides aftercare to a patient in the patient's residence; and

(5) "residence" means a dwelling considered by a patient to be the patient's home, not including a hospital, nursing home or group home or assisted living facility."

SECTION 36. Section 24-1-5.7 NMSA 1978 (being Laws 2003, Chapter 190, Section 1, as amended) is recompiled as Section 24A-1-12 NMSA 1978 and is amended to read:

"24A-1-12. METHADONE CLINICS--REGULATION BY THE [HUMAN SERVICES DEPARTMENT] AUTHORITY.--

A. The federal government requires the state to approve the establishment of all new methadone clinics. In an effort to maintain compliance with the federal requirement, the [human services department] authority shall regulate the establishment and continuance of methadone clinics in New Mexico in accordance with its powers and duties.

B. In regulating methadone clinics, the [human services department] authority shall perform an assessment of the need for clinics and develop clinical and administrative standards as required by federal law. The [human services department] authority may consider other factors it deems necessary to ensure the provision of drug abuse treatment services and the protection of the health and safety of New Mexico residents.

C. For the purposes of this section, "methadone clinic" means a public or private facility that dispenses
methadone for the detoxification treatment or maintenance
treatment of narcotic addicts."

SECTION 37. Section 24-1-41 NMSA 1978 (being Laws 2019,
Chapter 129, Section 1) is recompiled as Section 24A-1-13 NMSA
1978 and is amended to read:

"24A-1-13. HEALTH FACILITIES--CERTIFIED NURSE
PRACTITIONERS--CERTIFIED NURSE-MIDWIVES--PRIVILEGES--PARITY
WITH PHYSICIANS.--

A. Unless required by federal law, a health
facility shall establish the same criteria for granting patient
admitting or discharge privileges or in authorizing continuing
patient care for certified nurse practitioners, certified
nurse-midwives and clinical nurse specialists as the health
facility has established for physicians.

B. A health facility shall ensure that certified
nurse practitioners, certified nurse-midwives and clinical
nurse specialists acting in accordance with these
professionals' respective scopes of practice under New Mexico
law are:

(1) eligible to serve on the health facility's
medical staff;

(2) credentialed under the same procedures as
the health facility has established for physicians; and

(3) authorized to conduct peer review of their
professional colleagues.
C. As used in this section:

   (1) "certified nurse-midwife" means [an individual] **a person** licensed as a registered nurse pursuant to the Nursing Practice Act and licensed by the department of health as a certified nurse-midwife;

   (2) "certified nurse practitioner" means a registered nurse who is licensed by the board of nursing for advanced practice as a certified nurse practitioner pursuant to the Nursing Practice Act;

   (3) "clinical nurse specialist" means a registered nurse who is licensed by the board of nursing for advanced practice as a clinical nurse specialist and whose name and pertinent information are entered on the list of clinical nurse specialists maintained by the board of nursing;

   (4) "health facility" means a health facility licensed by the department of health pursuant to the Public Health Act authority; and

   (5) "physician" means [an individual] **a person** licensed to practice as a medical doctor or an osteopathic physician."

SECTION 38. Section 24-1K-3 NMSA 1978 (being Laws 2021, Chapter 87, Section 3) is recompiled as Section 24A-1-14 NMSA 1978 and is amended to read:

"24A-1-14. PRIMARY CARE COUNCIL CREATED--DUTIES.--

A. The secretary shall create the "primary care council"
council" to:

(1) develop a shared description of primary care practitioners and services;

(2) analyze annually the proportion of health care delivery expenditures allocated to primary care statewide;

(3) review national and state models of optimal primary care investment with the objectives of increasing access to primary care, improving the quality of primary care services and lowering the cost of primary care delivery statewide;

(4) review New Mexico state and county data and information about barriers to accessing primary care services faced by New Mexico residents;

(5) recommend policies, [regulations] rules and legislation to increase access to primary care, improve the quality of primary care services and lower the cost of primary care delivery while reducing overall health care costs;

(6) coordinate efforts with the graduate medical education expansion review board and other primary care workforce development initiatives to devise a plan that addresses primary care workforce shortages within the state;

(7) report annually to the interim legislative health and human services committee and the legislative finance committee on ways that primary care investment could increase access to primary care, improve the quality of primary care
services, lower the cost of primary care delivery, address the
shortage of primary care providers and reduce overall health
care costs; and

(8) develop and present to the secretary a
five-year plan to determine how primary care investment could
increase access to primary care, improve the quality of primary
care services, lower the cost of primary care delivery, address
the shortage of primary care providers and reduce overall
health care costs.

B. The primary care council shall include nine
voting members and thirteen advisory members, appointed by the
secretary, and shall consist of:

(1) one member from the [department]
authority;

(2) one member from the department of health;

(3) one member from the office of
superintendent of insurance;

(4) one member from a statewide organization
representing federally qualified health centers in New Mexico;

(5) five members from statewide organizations
representing primary care providers or statewide health
professional societies or associations; and

(6) thirteen nonvoting members representing
health care and other stakeholders, in an advisory capacity.

C. The chair of the primary care council shall be
elected by the voting members of the council.

D. The council shall meet at the call of the chair.

E. Members of the council shall not be paid per
diem and mileage or other compensation for their services.

F. The [secretary] authority shall provide staff
support for the council in the performance of its duties.

G. A simple majority of the voting members of the
council constitutes a quorum.

H. The council shall hold its first meeting no
later than October 1, 2021."

SECTION 39. Section 24-1-34 NMSA 1978 (being Laws 2012,
Chapter 4, Section 1, as amended) is recompiled as Section
24A-1-15 NMSA 1978 and is amended to read:

"24A-1-15. PRIMARY STROKE CENTERS--COMPREHENSIVE STROKE
CENTERS--ACUTE STROKE CAPABLE CENTERS--[DEPARTMENT] AUTHORITY
CERTIFICATION--RULEMAKING.--

A. In accordance with [department] authority rules,
the [department] authority shall certify any acute care
hospital as a primary stroke center, comprehensive stroke
center or acute stroke capable center if that hospital has been
accredited by the joint commission or any other nationally
recognized accrediting body as a primary stroke center,
comprehensive stroke center or acute stroke capable center.
The [department] authority shall post information regarding
certification on the [department's web site] authority's
web site.
website. If a hospital loses accreditation as a primary stroke center, comprehensive stroke center or acute stroke capable center, the secretary shall also remove that hospital's certification.

B. In accordance with [department] authority rules, the emergency medical systems bureau of the department of health shall work in coordination with all local and regional emergency medical services authorities statewide on the development of pre-hospitalization protocols related to the assessment, treatment and transport of stroke patients by licensed emergency medical services providers. These protocols shall include, at a minimum, plans for the triage and transport of stroke patients to the closest comprehensive or primary stroke center or, when appropriate, to an acute stroke capable center.

C. The secretary may adopt rules to assist and encourage primary stroke centers to enter into coordinated stroke care agreements with other health care facilities throughout the state to provide appropriate access to care for acute stroke patients."

SECTION 40. Section 24-1-35 NMSA 1978 (being Laws 2013, Chapter 114, Section 1) is recompiled as Section 24A-1-16 NMSA 1978 and is amended to read:

"24A-1-16. ASSISTED LIVING FACILITIES CONTRACTS--LIMIT ON CHARGES AFTER RESIDENT DEATH.--
A. The contract for each resident of an assisted living facility shall include a refund policy to be implemented at the time of a resident's death. The refund policy shall provide that the resident's estate or responsible party is entitled to a prorated refund based on the calculated daily rate for any unused portion of payment beyond the termination date after all charges have been paid to the licensee. For the purpose of this section, the termination date shall be the date the unit is vacated by the resident due to the resident's death and cleared of all personal belongings.

B. If a resident's belongings are not removed within one week of the resident's death and the amount of belongings does not preclude renting the unit, the facility may clear the unit and charge the resident's estate for moving and storing the items at a rate equal to the actual cost to the facility, not to exceed ten percent of the regular rate for the unit; provided that the responsible party for the resident is given notice at least one week before the resident's belongings are removed. If the resident's belongings are not claimed within forty-five days after notification, the facility may dispose of them.

C. For the purposes of this section, "assisted living facility" means a facility required to be licensed as an assisted living facility for adults by the [department of health] authority."
SECTION 41. Section 24-1E-1 NMSA 1978 (being Laws 1996, Chapter 35, Section 4, as amended) is recompiled as Section 24A-2-1 NMSA 1978 and is amended to read:


SECTION 42. Section 24-1E-2 NMSA 1978 (being Laws 1996, Chapter 35, Section 5, as amended) is recompiled as Section 24A-2-2 NMSA 1978 and is amended to read:

"24A-2-2. DEFINITIONS.--As used in the Health Facility Receivership Act:

[A. "department" means the department of health;]

B. [A. "health facility" [means:]

   (1) a health facility as defined in Subsection D of Section 24-1-2 NMSA 1978 other than a child-care center or facility, whether or not licensed by the state of New Mexico; or
   
   (2) includes community-based [program] programs providing services funded, directly or indirectly, in whole or in part, by the home and community-based medicaid waiver program or by developmental disabilities, traumatic brain injury or other medical disabilities programs; and
   
   [C. "person" includes a natural person and any other form of entity recognized by law;]

D. [B. "receiver" means the secretary, upon

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appointment pursuant to the Health Facility Receivership Act

E. "secretary" means the secretary of health]."

SECTION 43. Section 24-1E-3 NMSA 1978 (being Laws 1996, Chapter 35, Section 6) is recompiled as Section 24A-2-3 NMSA 1978 and is amended to read:

"24A-2-3. HEALTH FACILITY RECEIVERSHIPS AUTHORIZED--VENUE.--

A. The secretary may file a verified petition in the district court seeking appointment as receiver of a health facility if the facility:

(1) is being operated without a valid license from the [division] authority;

(2) will be closed within sixty days and adequate arrangements to relocate its residents have not been submitted to and approved by the secretary;

(3) has been abandoned, its residents have been abandoned or such abandonment is imminent; or

(4) presents a situation, physical condition, practice or method of operation that the secretary finds presents an imminent danger of death or significant mental or physical harm to its residents or other persons.

B. The proceedings shall be governed by, and the receiver's powers and duties shall be as specified in, the Receivership Act, supplemented as provided in the Health
Facility Receivership Act.

C. Venue shall be laid in the district court for Santa Fe county or any other county in which the health facility or any of its satellite facilities is located.

D. Service of process shall be made in any manner provided by the Rules of Civil Procedure for the District Courts. If personal service cannot practicably or promptly be made as so provided, service may be made by delivery of the summons with the petition attached to any person in charge of the health facility at the time service is made.

E. The health facility shall file a responsive pleading within ten days after the date service is made or within such time as directed by the district court."

SECTION 44. Section 24-1E-3.1 NMSA 1978 (being Laws 2001, Chapter 225, Section 4) is recompiled as Section 24A-2-4 NMSA 1978 and is amended to read:

"24A-2-4. RULEMAKING.--[No later than December 31, 2001] The secretary shall promulgate rules to implement the provisions of the Health Facility Receivership Act. As a minimum, the rules shall establish:

A. conditions under which a petition for a health facility receivership may be filed;

B. the duties, authority and responsibilities of the deputy receiver and the health facility;

C. the specific authority of the deputy receiver to
impose financial conditions and requirements on the health
facility;

D. minimum qualifications for deputy receivers; and

E. provisions that will be requested for inclusion
in district court orders entered pursuant to the Health
Facility Receivership Act."

SECTION 45. Section 9-7-6.4 NMSA 1978 (being Laws 2004,
Chapter 46, Section 8, as amended) is recompiled as Section
24A-3-1 NMSA 1978 and is amended to read:

"24A-3-1. INTERAGENCY BEHAVIORAL HEALTH PURCHASING
COLLABORATIVE.--

A. The "interagency behavioral health purchasing
collaborative" is created, consisting of the secretaries of
health care authority, aging and long-term services, Indian
affairs, [human services] health, corrections, children, youth
and families, early childhood education and care, finance and
administration, workforce solutions, public education and
transportation or their designees; the directors of the
administrative office of the courts, the [New Mexico mortgage
finance] retiree health care authority, the governor's
commission on disability, the developmental disabilities
council, the instructional support and vocational education
division of the public education department and the New Mexico
health policy commission or their designees; and the governor's
health policy coordinator or their designees. The
collaborative shall be chaired by the secretary of [human services] health care authority with the respective secretaries of health and children, youth and families alternating annually as co-chairs.

B. The collaborative shall meet regularly and at the call of either co-chair and shall:

(1) identify behavioral health needs statewide, with an emphasis on that hiatus between needs and services set forth in the [department of health's] authority's gap analysis and in ongoing needs assessments, and develop a master plan for statewide delivery of services;

(2) give special attention to regional differences, including cultural, rural, frontier, urban and border issues;

(3) inventory all expenditures for behavioral health, including mental health and substance abuse;

(4) plan, design and direct a statewide behavioral health system, ensuring both availability of services and efficient use of all behavioral health funding, taking into consideration funding appropriated to specific affected departments; and

(5) contract for operation of one or more behavioral health entities to ensure availability of services throughout the state.

C. The plan for delivery of behavioral health
services shall include specific service plans to address the needs of infants, children, adolescents, adults, and seniors, as well as to address workforce development and retention and quality improvement issues. The plan shall be revised every two years and shall be adopted by the [department of health authority as part of the statewide health plan.

D. The plan shall take the following principles into consideration, to the extent practicable and within available resources:

1. services should be individually centered and family-focused based on principles of individual capacity for recovery and resiliency;
2. services should be delivered in a culturally responsive manner in a home- or community-based setting, where possible;
3. services should be delivered in the least restrictive and most appropriate manner;
4. individualized service planning and case management should take into consideration individual and family circumstances, abilities and strengths and be accomplished in consultation with appropriate family, caregivers and other persons critical to the individual's life and well-being;
5. services should be coordinated, accessible, accountable and of high quality;
6. services should be directed by the [department of health]
individual or family served to the extent possible;

(7) services may be consumer- or family-
provided, as defined by the collaborative;

(8) services should include behavioral health
promotion, prevention, early intervention, treatment and
community support; and

(9) services should consider regional
differences, including cultural, rural, frontier, urban and
border issues.

E. The collaborative shall seek and consider
suggestions of Native American representatives from Indian
nations, tribes and pueblos and the urban Indian population,
located wholly or partially within New Mexico, in the
development of the plan for delivery of behavioral health
services.

F. Pursuant to the State Rules Act, the
collaborative shall adopt rules through the [human services
department] authority for:

(1) standards of delivery for behavioral
health services provided through contracted behavioral health
entities, including:

(a) quality management and improvement;

(b) performance measures;

(c) accessibility and availability of
services;
(d) utilization management;
(e) credentialing of providers;
(f) rights and responsibilities of consumers and providers;
(g) clinical evaluation and treatment and supporting documentation; and
(h) confidentiality of consumer records;
and
(2) approval of contracts and contract amendments by the collaborative, including public notice of the proposed final contract.

G. The collaborative shall, through the [human services department] authority, submit a separately identifiable consolidated behavioral health budget request. The consolidated behavioral health budget request shall account for requested funding for the behavioral health services program at the [human services department] authority and any other requested funding for behavioral health services from agencies identified in Subsection A of this section that will be used pursuant to Paragraph (5) of Subsection B of this section. Any contract proposed, negotiated or entered into by the collaborative is subject to the provisions of the Procurement Code.

H. The collaborative shall, with the consent of the governor, appoint a "director of the collaborative". The
director is responsible for the coordination of day-to-day activities of the collaborative, including the coordination of staff from the collaborative member agencies.

I. The collaborative shall provide a quarterly report to the legislative finance committee on performance outcome measures. The collaborative shall submit an annual report to the legislative finance committee and the interim legislative health and human services committee that provides information on:

(1) the collaborative's progress toward achieving its strategic plans and goals;

(2) the collaborative's performance information, including contractors and providers; and

(3) the number of people receiving services, the most frequently treated diagnoses, expenditures by type of service and other aggregate claims data relating to services rendered and program operations."

SECTION 46. Section 24-1-28 NMSA 1978 (being Laws 2004, Chapter 46, Section 2, as amended) is recompiled as Section 24A-3-2 NMSA 1978 and is amended to read:

"24A-3-2. BEHAVIORAL HEALTH PLANNING COUNCIL CREATED--POWERS AND DUTIES--MEMBERSHIP.--[There is created]

A. The "behavioral health planning council" [A.] is created. The council [shall consist] consists of the following members, all of whom shall be appointed by and serve at the
pleasure of the governor:

(1) consumers of behavioral health services and consumers of substance abuse services, as follows:

(a) adults with serious mental illness;
(b) seniors;
(c) family members of adults with serious mental illness and of children with serious emotional or neurobiological disorders; and
(d) persons with co-occurring disorders;

(2) Native American representatives from a pueblo, an Apache tribe, the Navajo Nation and an urban Native American population;

(3) providers;

(4) state agency representation from agencies responsible for:

(a) adult mental health and substance abuse;
(b) children's mental health and substance abuse;
(c) education;
(d) vocational rehabilitation;
(e) criminal justice;
(f) juvenile justice;
(g) housing;
(h) medicaid and social services;
(i) health policy planning;
(j) developmental disabilities planning;

and

(k) disabilities issues and advocacy;

(5) such other members as the governor may

appoint to ensure appropriate cultural and geographic

representation; and

(6) advocates.

B. Providers and state agency representatives
together may not constitute more than forty-nine percent of the
council membership.

C. The council shall:

(1) advocate for adults, children and
adolescents with serious mental illness or severe emotional,
eurobiological and behavioral disorders, as well as those with
mental illness or emotional problems, including substance abuse
and co-occurring disorders;

(2) report annually to the governor and the
legislature on the adequacy and allocation of mental health
services throughout the state;

(3) encourage and support the development of a
comprehensive, integrated, community-based behavioral health
system of care, including mental health and substance abuse
services, and services for persons with co-occurring disorders;

(4) advise state agencies responsible for
behavioral health services for children and adults, as those agencies are charged in Section [9-7-6.4] 24A-3-1 NMSA 1978;

(5) meet regularly and at the call of the chair, who shall be selected by the council membership from among its members;

(6) establish subcommittees, to meet at least quarterly, as follows:

(a) a medicaid subcommittee, chaired by the secretary of [human services] health care authority or a designee, which may also serve as a subcommittee of the medicaid advisory committee;

(b) a child and adolescent subcommittee, chaired by the secretary of children, youth and families or a designee;

(c) an adult subcommittee, chaired by the secretary of health care authority or a designee;

(d) a substance abuse subcommittee, chaired by the secretary of health or a designee, which shall include DWI issues and shall include representation from local DWI councils;

(e) a Native American subcommittee, chaired by the secretary of Indian affairs or a designee; and

(f) other subcommittees as may be established by the chair of the council to address specific issues. All subcommittees may include nonvoting members.
appointed by the chair for purposes of providing expertise necessary to the charge of the respective subcommittee;

(7) review and make recommendations for the comprehensive mental health state block grant and the substance abuse block grant applications, the state plan for medicaid services and any other plan or application for federal or foundation funding for behavioral health services; and

(8) replace the governor's mental health planning council and act in accordance with Public Law 102-321 of the federal Public Health Service Act."

SECTION 47. Section 9-8-7.3 NMSA 1978 (being Laws 2019, Chapter 222, Section 2, as amended) is recompiled as Section 24A-3-3 NMSA 1978 and is amended to read:

"24A-3-3. INCARCERATED PERSONS--BEHAVIORAL HEALTH SERVICES--COUNTY FUNDING PROGRAM.--To carry out the provisions of Subsection E of Section 9-8-7.1 NMSA 1978 and to provide behavioral health services to persons who are incarcerated in a county correctional facility:

A. the secretary shall adopt and promulgate rules:

(1) pursuant to which a county may apply for and be awarded funding through the [department] authority; and

(2) to establish priorities and guidelines for the award of funding to counties; and

B. the [department] authority shall distribute funds, as funding permits, to the county health care assistance
funds of those counties:

(1) that apply for behavioral health services
funding in accordance with [department] authority rules; and

(2) whose proposed utilization of funding
pursuant to this section meets the priorities and guidelines
for the awarding of behavioral health services funding
established in [department] authority rules."

SECTION 48. Section 24-1A-1 NMSA 1978 (being Laws 1981,
Chapter 295, Section 1) is recompiled as Section 24A-4-1 NMSA
1978 and is amended to read:

"24A-4-1. SHORT TITLE.--[This act] Chapter 24A, Article
4 NMSA 1978 may be cited as the "Rural Primary Health Care
Act"."

SECTION 49. Section 24-1A-3 NMSA 1978 (being Laws 1981,
Chapter 295, Section 3, as amended) is recompiled as Section
24A-4-3 NMSA 1978 and is amended to read:

"24A-4-3. DEFINITIONS.--As used in the Rural Primary
Health Care Act:

A. "health care underserved areas" means a
geographic area in which it has been determined by the
[department of health] authority, through the use of indices
and other standards set by the [department] authority, that
sufficient primary health care is not being provided to the
citizens of that area;

B. "eligible programs" means nonprofit community-
based entities that provide or commit to provide primary health care services for residents of health care underserved areas and includes rural health facilities and those serving primarily low-income populations; and

[C. "department" means the department of health; and

D.] C. "primary health care" means the first level of basic or general health care for [an individual's] a person's health needs, including diagnostic and treatment services."

SECTION 50. Section 24-1A-3.1 NMSA 1978 (being Laws 1983, Chapter 236, Section 3, as amended) is recompiled as Section 24A-4-4 NMSA 1978 and is amended to read:

"24A-4-4. [DEPARTMENT] AUTHORITY--TECHNICAL AND FINANCIAL ASSISTANCE.--To the extent funds are made available for the purposes of the Rural Primary Health Care Act, the [department] authority is authorized to:

A. provide for a program to recruit and retain health care personnel in health care underserved areas;

B. develop plans for and coordinate the efforts of other public and private entities assisting in the provision of primary health care services through eligible programs;

C. provide for technical assistance to eligible programs in the areas of administrative and financial management, clinical services, outreach and planning;
D. provide for distribution of financial assistance to eligible programs that have applied for and demonstrated a need for assistance in order to sustain a minimum level of delivery of primary health care services; and

E. provide a program for enabling the development of new primary care health care services or facilities, and that program:

(1) shall give preference to communities that have few or no community-based primary care services;

(2) may require in-kind support from local communities where primary care health care services or facilities are established;

(3) may require primary care health care services or facilities to assure provision of health care to the medically indigent; and

(4) shall permit the implementation of innovative and creative uses of local or statewide health care resources, or both, other than those listed in Paragraphs (2) and (3) of this subsection."

SECTION 51. Section 24-1A-4 NMSA 1978 (being Laws 1981, Chapter 295, Section 4, as amended) is recompiled as Section 24A-4-5 NMSA 1978 and is amended to read:

"24A-4-5. RULES [AND REGULATIONS].--[Subject to the State Rules Act, the department] The authority shall adopt rules [and regulations] in accordance with the State Rules Act.
for recruiting health care personnel in health care underserved
areas, and shall establish a formula for distribution of
financial assistance to eligible programs [which] shall take into account the relative needs of applicants for
assistance; provided that funds may not be expended for land or facility acquisition or debt amortization; and further provided that a local match of ten percent shall be required from each local recipient for each request for assistance."

SECTION 52. Section 24-1A-5 NMSA 1978 (being Laws 2023, Chapter 204, Section 1) is recompiled as Section 24A-4-6 NMSA 1978 and is amended to read:

"24A-4-6. RURAL HEALTH CARE DELIVERY FUND--GRANTS--APPLICATIONS--AWARDS.--

A. The "rural health care delivery fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, gifts, grants, donations, income from investment of the fund and any other revenue credited to the fund. The [department] authority shall administer the fund, and money in the fund is appropriated to the [department] authority to carry out the provisions of [this section] the Rural Primary Health Care Act. Expenditures shall be by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary [of human services] or the secretary's authorized representative.

B. A rural health care provider or rural health
care facility may apply to the [department] authority for a
grant to defray operating losses, including rural health care
provider or rural health care facility start-up costs, incurred
in providing inpatient, outpatient, primary, specialty or
behavioral health services to New Mexico residents. The
[department] authority may award a grant from the rural health
care delivery fund to a rural health care provider or rural
health care facility that is providing a new or expanded health
care service as approved by the department that covers
operating losses for the new or expanded health care service,
subject to the following conditions and limitations:

(1) the rural health care provider or rural
health care facility meets state licensing requirements to
provide health care services and is an enrolled medicaid
provider that actively serves medicaid recipients;

(2) grants are for one year and for no more
than the first five years of operation as a newly constructed
rural health care facility or the operation of a new or
expanded health care service;

(3) grants are limited to covering operating
losses for which recognized revenue is not sufficient;

(4) the rural health care provider or rural
health care facility provides adequate cost data, as defined by
rule of the [department] authority, based on financial and
statistical records that can be verified by qualified auditors

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and which data are based on an approved method of cost finding
and the accrual basis of accounting and can be confirmed as
having been delivered through review of claims;

(5) grant award amounts shall be reconciled by
the [department] authority to audited operating losses after
the close of the grant period;

(6) in the case of a rural health care
provider, the provider commits to:

(a) a period of operation equivalent to
the number of years grants are awarded; and

(b) actively serve medicaid recipients
throughout the duration of the grant period; and

(7) in prioritizing grant awards, the
[department] authority shall consider the health needs of the
state and the locality and the long-term sustainability of the
new or expanded service.

C. As used in this section:

(1) "allowable costs" means necessary and
proper costs defined by rule of the [department] authority
based on medicare reimbursement principles, including
reasonable direct expenses, but not including general overhead
and management fees paid to a parent corporation;

[(2) "department" means the human services
department;]

(3) "health care services" means services
for the diagnosis, prevention, treatment, cure or relief of a physical, dental, behavioral or mental health condition, substance use disorder, illness, injury or disease and for medical or behavioral health ground transportation;

[(4)] (3) "medicaid" means the medical assistance program established pursuant to Title 19 of the federal Social Security Act and [regulations] rules issued pursuant to that act;

[(5)] (4) "medicaid provider" means a person that provides medicaid-related services to medicaid recipients;

[(6)] (5) "medicaid recipient" means a person whom the [department] authority has determined to be eligible to receive medicaid-related services in the state;

[(7)] (6) "operating losses" means the projected difference between recognized revenue and allowable costs for a grant request period;

[(8)] (7) "recognized revenue" means operating revenue, including revenue directly related to the rendering of patient care services and revenue from nonpatient care services to patients and persons other than patients; the value of donated commodities; supplemental payments; distributions from the safety net care pool fund; and distributions of federal funds;

[(9)] (8) "rural health care facility" means a health care facility licensed in the state that provides
inpatient or outpatient physical or behavioral health services
or programmatic services in a county that has a population of
one hundred thousand or fewer according to the most recent
federal decennial census;

[(10)] (9) "rural health care provider" means
an individual health professional licensed by the appropriate
board, a medical or behavioral health ground transportation
entity licensed by the public regulation commission or a health
facility organization licensed by the [department of health]
authority to provide health care diagnosis and treatment of
physical or behavioral health or programmatic services in a
county that has a population of one hundred thousand or fewer
according to the most recent federal decennial census; and

[(11)] (10) "start-up costs" means the
planning, development and operation of rural health care
services, including legal fees; accounting fees; costs
associated with leasing equipment, a location or property;
depreciation of equipment costs; and staffing costs. "Start-up
costs" does not mean the construction or purchase of land or
buildings."

SECTION 53. Section 24-1C-1 NMSA 1978 (being Laws 1994,
Chapter 62, Section 7, as amended) is recompiled as Section
24A-5-1 NMSA 1978 and is amended to read:

NMSA 1978 may be cited as the "Primary Care Capital Funding
SECTION 54. Section 24-1C-3 NMSA 1978 (being Laws 1994, Chapter 62, Section 9, as amended) is recompiled as Section 24A-5-3 NMSA 1978 and is amended to read:

"24A-5-3. DEFINITIONS.--As used in the Primary Care Capital Funding Act:

[A. "authority" means the New Mexico finance authority;

B. ] A. "capital project" means acquisition, repair, renovation or construction of a facility; purchase of land; acquisition of capital equipment of a long-term nature; or acquisition of capital equipment to be used in the delivery of primary care, telehealth or hospice services;

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

D. ] B. "eligible entity" means:

   (1) a community-based nonprofit primary care clinic or hospice that operates in a rural or other health care underserved area of the state, that is a 501(c)(3) nonprofit corporation for federal income tax purposes and that is eligible for funding pursuant to the Rural Primary Health Care Act;

   (2) a school-based health center that operates in a public school district and that meets [department] health care authority requirements or that is funded by the federal department of health and human services;
(3) a primary care clinic that operates in a rural or other health care underserved area of the state, that is owned by a county or municipality and that meets [department] health care authority requirements for eligibility; or

(4) a telehealth site that is operated by an entity described in this subsection;

[F.] C. "fund" means the primary care capital fund;

[F.] D. "operating capital" means funds needed to meet short-term obligations, such as accounts payable, wages, debt servicing, lease and income tax payments;

[F.] E. "primary care" means the first level of basic or general health care for [an individual's] a person's health needs, including diagnostic and treatment services and [including] services delivered at a primary care clinic, a telehealth site or a school-based health center; "primary care" includes the provision of mental health services if those services are integrated into the eligible entity's service array; and

[H.] F. "project" means a capital project or operating capital needed to support the increase of primary care services to sick and medically indigent persons."

SECTION 55. Section 24-1C-4 NMSA 1978 (being Laws 1994, Chapter 62, Section 10, as amended) is recompiled as Section 24A-5-4 NMSA 1978 and is amended to read:

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"24A-5-4. PRIMARY CARE CAPITAL FUND--CREATION.--

A. The "primary care capital fund" is created as a revolving fund in the New Mexico finance authority. The fund consists of loan repayments, gifts, grants, donations, and interest earned on investment of the fund and any other money deposited in the fund. A separate account shall be maintained for money deposited on account for loans to school-based health centers and telehealth sites. [Money in the fund shall not revert at the end of a fiscal year.]

B. The fund shall be administered by the New Mexico finance authority and the authority may recover from the fund the actual costs of administering the fund and originating loans."

SECTION 56. Section 24-1C-5 NMSA 1978 (being Laws 1994, Chapter 62, Section 11, as amended) is recompiled as Section 24A-5-5 NMSA 1978 and is amended to read:

"24A-5-5. RULES.--The health care authority shall adopt rules to administer and implement the provisions of the Primary Care Capital Funding Act, including providing for:

A. the determination of rural or other health care underserved areas of the state in which eligible entities may receive loans or contracts for services from the fund;
B. procedures and forms for applying for loans or contracts for services for projects;
C. documentation required to be provided by the applicant to justify the need for the project;
D. documentation required to be provided by the applicant to demonstrate that the applicant is an eligible entity;
E. procedures for review, evaluation and approval of loans and contracts for services, including the programmatic, organizational and financial information necessary to review, evaluate and approve an application;
F. evaluation of the ability and competence of an applicant to provide efficiently and adequately for the completion of a proposed project;
G. approval of loan and contract for services applications, including provisions that accord priority attention to areas with the greatest need for primary care services;
H. fair geographic distribution of loans and contracts for services; and
I. such other requirements deemed necessary by the [department] health care authority to ensure that the state receives the primary care services for which the legislature appropriates money and that protect the state's interest in a project."
SECTION 57. Section 24-1C-6 NMSA 1978 (being Laws 1994, Chapter 62, Section 12, as amended) is recompiled as Section 24A-5-6 NMSA 1978 and is amended to read:

"24A-5-6. [DEPARTMENT] HEALTH CARE AUTHORITY--NEW MEXICO
FINANCE AUTHORITY--POWERS AND DUTIES.--

A. The [department] health care authority and the New Mexico finance authority shall administer the loan programs and contracts for services established pursuant to the provisions of the Primary Care Capital Funding Act. The [department] health care authority and the New Mexico finance authority shall:

(1) enter into joint powers agreements with each other or other appropriate public agencies to carry out the provisions of that act; and

(2) apply to any appropriate federal, state or local governmental agency or private organization for grants and gifts to carry out the provisions of that act or to fund allied community-based health care programs.

B. Instead of a loan, the [department or authority] health care authority may [instead of a loan] determine a contract for services with an eligible entity to provide free or reduced fee primary care services for sick and medically indigent persons as reasonably adequate legal consideration for money from the fund to the eligible entity so it may acquire or construct a capital project to provide the services.
C. The [department] health care authority and the New Mexico finance authority may:

(1) make and enter into contracts and agreements necessary to carry out their powers and duties pursuant to the provisions of the Primary Care Capital Funding Act; and

(2) do all things necessary or appropriate to carry out the provisions of [the Primary Care Capital Funding] that act.

D. The New Mexico finance authority is responsible for all financial duties of the programs, including:

(1) administering the fund;

(2) accounting for all money received, controlled or disbursed for capital projects in accordance with the provisions of the Primary Care Capital Funding Act;

(3) evaluating and approving loans [and contracts for services], including determining financial capacity of an eligible entity;

(4) enforcing contract provisions of loans and contracts for services, including the ability to sue to recover money or property owed the state;

(5) determining requirements for repayment of loans, including interest rates, loan terms, payment schedules and other financial aspects of a loan [and relevant terms of a contract for services];
(6) ensuring the New Mexico finance authority's interest in any project by the filing of a lien equal to the total of the authority's financial participation in the project; and

(7) performing other duties in accordance with the provisions of [the Primary Care Capital Funding] that act, rules promulgated pursuant to that act or joint powers agreements entered into with the [department] health care authority.

E. The [department] health care authority is responsible for the following duties:

(1) defining sick and medically indigent persons for purposes of the Primary Care Capital Funding Act;

(2) establishing priorities for loans and contracts for services;

(3) determining the appropriateness of the project;

(4) evaluating the capability of an applicant to provide and maintain primary care or hospice services;

(5) selecting recipients of loans and persons with whom to contract for services;

(6) determining that capital projects comply with all state and federal licensing; and

(7) contracting with [an eligible entity] eligible entities to provide primary care services without
charge or at a reduced fee for sick and medically indigent persons as defined by the [department] health care authority as repayment of loans.

F. The New Mexico finance authority may make a loan to an eligible entity to acquire, construct, renovate or otherwise improve a capital project or to fund operating capital, provided there is a finding:

(1) by the [department] health care authority that the project will provide primary care services to sick and medically indigent persons as [defined by the department] determined by the health care authority; and

(2) by the New Mexico finance authority that there is adequate protection, including loan guarantees, real property liens, title insurance, security interests in or pledges of accounts and other assets, loan covenants and warranties or restrictions on other encumbrances and pledges for the state funds extended for the loan.

G. The New Mexico finance authority may make a loan to a school-based health center that operates in a school district or to a telehealth site for a capital project; provided, however, that the loan shall not exceed the amount in the account reserved for school-based health center or telehealth site funding."

SECTION 58. Section 24-1C-9 NMSA 1978 (being Laws 1994, Chapter 62, Section 15, as amended) is recompiled as Section .226491.1GLG
24A-5-7 NMSA 1978 and is amended to read:

"24A-5-7. ELIGIBLE ENTITY--CHANGE IN STATUS.--If an eligible entity that has received a loan or contract for services for a capital project ceases to maintain its nonprofit status or ceases to deliver primary care services at the site of the capital project for twelve consecutive months, the New Mexico finance authority may pursue the remedies provided in the loan agreement or contract for services or as provided by law."

SECTION 59. Section 24-1C-10 NMSA 1978 (being Laws 1994, Chapter 62, Section 16) is recompiled as Section 24A-5-8 NMSA 1978 and is amended to read:

"24A-5-8. REPORT.--The health care authority and the New Mexico finance authority shall report jointly to the governor and the legislature by December 1 of each year on the primary care capital funding program."

SECTION 60. Section 24-17A-1 NMSA 1978 (being Laws 1998, Chapter 82, Section 1) is recompiled as Section 24A-6-1 NMSA 1978 and is amended to read:

"24A-6-1. SHORT TITLE.--[This act] Chapter 24A, Article 6 NMSA 1978 may be cited as the "Long-Term Care Services Act"."

SECTION 61. Section 24-17A-3 NMSA 1978 (being Laws 1998, Chapter 82, Section 3) is recompiled as Section 24A-6-3 NMSA 1978 and is amended to read:

"24A-6-3. INTERAGENCY COMMITTEE CREATED--COORDINATED
SERVICE DELIVERY SYSTEM--LEAD AGENCY--SERVICE DELIVERY SYSTEM.--

A. The "interagency committee on long-term care" is created.

B. Members of the interagency committee on long-term care shall be the heads of the following agencies or their designated representatives:

1) the authority;

2) the state agency on aging and long-term services department;

3) the human services department;

4) the department of health;

5) the children, youth and families department;

6) the governor's committee on concerns of the handicapped commission on disability;

7) the developmental disabilities planning council; and

8) the office of superintendent of insurance.

C. The interagency committee on long-term care shall design and implement a coordinated service delivery system that fulfills the legislative mandate to develop a
coordinated long-term care system.

D. The governor shall appoint a chairperson from the membership of the interagency committee on long-term care."

SECTION 62. Section 24-17B-1 NMSA 1978 (being Laws 2021, Chapter 111, Section 1) is recompiled as Section 24A-7-1 NMSA 1978 and is amended to read:

"24A-7-1. SHORT TITLE.--[This act] Chapter 24A, Article 7 NMSA 1978 may be cited as the "Long-Term Care Facility Dementia Training Act"."

SECTION 63. Section 24-17B-2 NMSA 1978 (being Laws 2021, Chapter 111, Section 2, as amended) is recompiled as Section 24A-7-2 NMSA 1978 and is amended to read:

"24A-7-2. [DEFINITIONS] DEFINITION.--As used in the Long-Term Care Facility Dementia Training Act:

[A. "department" means the department of health;]
B. "direct care service" means services provided to long-term care facility residents that maintain or improve the health and quality of life of the residents;

[C. "direct care service staff member" means a person employed by or contracted with a long-term care facility to provide in-person direct care services to long-term care facility residents. "Direct care service staff member" does not include a registered nurse licensed pursuant to the Nursing Practice Act or a physician licensed pursuant to the Medical Practice Act who has received specialized training or education.
in geriatric care; and

[B-] C. "long-term care facility" means a long-term care facility licensed by the state that is not otherwise required to provide at least four hours of dementia care training under state or federal law. "Long-term care facility" does not include a facility licensed pursuant to the Public Health Act as an intermediate care facility for individuals with intellectual disabilities."

SECTION 64. Section 24-17B-3 NMSA 1978 (being Laws 2021, Chapter 111, Section 3, as amended) is recompiled as Section 24A-7-3 NMSA 1978 and is amended to read:

"24A-7-3. TRAINING REQUIRED.--

A. Each long-term care facility that is subject to the Long-Term Care Facility Dementia Training Act shall provide at least four hours of dementia training to each direct care service staff member that it employs on:

(1) recognizing and treating Alzheimer's disease and dementia;
(2) person-centered care;
(3) activities of daily living;
(4) an overview of the different types of dementia;
(5) strategies to manage the behavior of people who have dementia; and
(6) strategies to effectively communicate with
people who have dementia.

B. Training may be online or in-person and shall be a training program of at least four hours. Each long-term care facility shall submit the training program that it uses or proposes to use to the [department] authority for review. If the [department] authority finds that the training program does not satisfy the purposes of the Long-Term Care Facility Dementia Training Act, it shall require the long-term care facility to submit a new proposed training program.

C. A person designing the training shall have at least two years of work experience related to Alzheimer's disease, dementia, health care, gerontology or other related field.

D. Every direct care service staff member shall complete the requirements for and obtain a training certificate. [as provided in Subsection E of this section.]

E. A direct care service staff member:

(1) hired after January 1, 2022 shall complete the training required pursuant to this section within ninety days of the start of employment;

(2) hired prior to January 1, 2022 who has not received training equivalent to the requirements set forth in the Long-Term Care Facility Dementia Training Act shall complete training within sixty days of January 1, 2022;

(3) hired prior to January 1, 2022 who
received training within the past twenty-four months equivalent to the requirements set forth in the Long-Term Care Facility Dementia Training Act shall be issued a training certificate by the long-term care facility that employs the direct care service staff member; and

(4) who has successfully obtained a training certificate but has had a lapse of dementia-related direct care service employment for twenty-four consecutive months or more shall complete training within ninety days of the start of employment.

[Ex] E. A long-term care facility that contracts for the services of a direct care service staff member may include a requirement in the contract that the direct care service staff member [has received] is required to receive dementia care training that satisfies the requirements of the Long-Term Care Facility Dementia Training Act."

SECTION 65. Section 24-17B-4 NMSA 1978 (being Laws 2021, Chapter 111, Section 4, as amended) is recompiled as Section 24A-7-4 NMSA 1978 and is amended to read:

"24A-7-4. [DEPARTMENT] AUTHORITY OVERSIGHT AND RULEMAKING.--In consultation with the aging and long-term services department, the [department] authority shall:

A. identify, publish a list of and periodically review online or in-person standardized training programs that meet the requirements of the Long-Term Care Facility Dementia Training Act.
Training Act;

B. develop and periodically review required evaluation instruments that demonstrate competency and knowledge gained in training topics;

C. promulgate rules to carry out the provisions of the Long-Term Care Facility Dementia Training Act, including:

(1) for evaluation on the training topics for treatment and care of persons with Alzheimer's disease or dementia; and

(2) requiring [an] one hour of dementia care training to be included as part of an annual continuing education training requirement for direct care service staff members at long-term care facilities, unless additional time is necessitated to address changing standards of care [and

(3) as necessary to carry out the Long-Term Care Facility Dementia Training Act];

D. issue interpretative guidance as necessary to ensure compliance with the Long-Term Care Facility Dementia Training Act;

E. review all long-term care facility dementia training programs related to the Long-Term Care Facility Dementia Training Act; and

F. give notice of the requirements of the Long-Term Care Facility Dementia Training Act to long-term care facilities within ninety days of June 18, 2021."
SECTION 66. Section 24-17B-5 NMSA 1978 (being Laws 2021, Chapter 111, Section 5, as amended) is recompiled as Section 24A-7-5 NMSA 1978 and is amended to read:

"24A-7-5. DEMENTIA TRAINING CERTIFICATES.--The training provider [of training conducted pursuant to the Long-Term Care Facility Dementia Training Act] shall issue a certificate to staff upon completion of initial training. The certificate shall be valid so long as the certificate holder meets the requirements set forth by the [department] authority pursuant to the Long-Term Care Facility Dementia Training Act and the certificate holder has not had a lapse of dementia-related direct care service employment for twenty-four consecutive months or more. The certificate shall be valid among long-term care facilities. Each long-term care facility and long-term care facility contractor that is subject to [the Long-Term Care Facility Dementia Training] that act shall be responsible for maintaining documentation regarding completed dementia training and evaluation for each direct care service staff member."

SECTION 67. Section 24-33-1 NMSA 1978 (being Laws 2019, Chapter 141, Section 1) is recompiled as Section 24A-8-1 NMSA 1978 and is amended to read:

"24A-8-1. SHORT TITLE.--[This act] Chapter 24A, Article 8 NMSA 1978 may be cited as the "Graduate Medical Education Expansion Grant Program Act"."

SECTION 68. Section 24-33-2 NMSA 1978 (being Laws 2019, .226491.1GLG
Chapter 141, Section 2) is recompiled as Section 24A-8-2 NMSA 1978 and is amended to read:

"24A-8-2. [DEFINITIONS] DEFINITION.--As used in the Graduate Medical Education Expansion Grant Program Act, [A. "department" means the human services department; B.] "graduate medical education training program" means a program that has received approval or is in the process of seeking approval to operate as a graduate medical education training program sponsor from the appropriate professional association that evaluates and accredits medical residency and internship programs, including:

B. a licensed and accredited hospital;

C. an academic medical education institution;

D. a new freestanding graduate medical education program;

E. an established or new graduate medical education training consortium; and

F. a federally qualified health center [and

G. "secretary" means the secretary of human services]."

SECTION 69. Section 24-33-3 NMSA 1978 (being Laws 2019, Chapter 141, Section 3) is recompiled as Section 24A-8-3 NMSA 1978 and is amended to read:

"24A-8-3. GRADUATE MEDICAL EDUCATION EXPANSION GRANT PROGRAM--FUND--DISTRIBUTIONS--APPLICATION REQUIREMENTS--
PRIORITIES FOR AWARDS--REPORTING REQUIREMENTS.--

A. The "graduate medical education expansion grant program fund" is created as a nonreverting fund in the state treasury. The fund consists of money appropriated by the legislature. Money in the fund shall not revert to any other fund at the end of a fiscal year appropriations, gifts, grants and donations. The authority shall administer the fund, and money in the fund is appropriated to the authority to administer the provisions of the Graduate Medical Education Expansion Grant Program Act. Money in the fund may be used to secure federal and private matching funds as determined by the secretary. Money in the fund shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the secretary of health care or the secretary's authorized representative.

B. To receive a grant, a graduate medical education training program shall apply to the graduate medical education expansion grant program as provided by rules promulgated by the authority. Grant amounts shall be determined by each applicant's grant application. Funds from the graduate medical education expansion grant program fund shall be distributed to graduate medical education training programs to develop and implement graduate medical education training programs. The
application [must] shall include the applicant's plan to receive accreditation for the positions within the graduate medical education training program.

C. The [department] authority may provide one-time planning grants to graduate medical education training programs pursuant to rules adopted by the secretary as provided by rule.

D. The [department] authority may provide graduate medical education grants to:

(1) establish new graduate medical education training programs with first-year positions;

(2) fund unfilled, accredited first-year positions within a graduate medical education training program;

(3) expand the number of first-year positions within an existing graduate medical education training program; and

(4) fund existing graduate medical education training programs.

E. The [department] authority may prioritize applications that emphasize the following:

(1) developing new or expanded programs with specialties of psychiatry, family medicine, pediatric medicine and internal medicine;

(2) increasing positions for medical specialities having shortages within the state, with preference
being given to the primary care specialties of family medicine, pediatric medicine and internal medicine; and

(3) increasing primary care positions in medically underserved areas within the state.

F. Each award recipient shall report annually to the graduate medical education expansion review board on the:

(1) expenditures of grant funds; and

(2) plans for unexpended funds."

SECTION 70. Section 24-33-4 NMSA 1978 (being Laws 2019, Chapter 141, Section 4) is recompiled as Section 24A-8-4 NMSA 1978 and is amended to read:

"24A-8-4. GRADUATE MEDICAL EDUCATION EXPANSION REVIEW BOARD--CREATED--DUTIES.--

A. [Prior to October 1, 2019, the department shall create] The "graduate medical education expansion review board" is created to:

(1) develop a state strategic plan for expanding graduate medical education training programs;

(2) review grant applications; and

(3) review the grants awarded pursuant to the Graduate Medical Education Expansion Grant Program Act.

B. The graduate medical education expansion review board shall consist of nine members who shall be appointed by the [department] authority. The review board shall include representation from each accredited osteopathic and allopathic
medical school and from the following groups:

(1) the [department] authority;
(2) the higher education department;
(3) hospitals, primary care consortiums and medical organizations; and
(4) osteopathic and allopathic medical professional societies and associations.

C. The chair of the review board shall be elected by the review board. The review board shall meet at the call of the chair.

D. Members of the review board shall not be paid per diem and mileage or other compensation for their services.

E. The [secretary] authority shall provide staff support for the review board in the performance of its duties.

F. A simple majority of the review board members constitutes a quorum. A member of the review board shall abstain from voting or the member's vote shall be disqualified on any matter in which the member has a pecuniary interest.

G. The [secretary of human services] health care authority and the [secretary of] higher education department shall assist the graduate medical education expansion review board in developing a strategic plan for the expansion of graduate medical education training programs, which shall include the following:

(1) a statement describing the objectives and
goals of the review board, the strategies by which those goals will be achieved and a time line for achieving those goals;

(2) a summary of the current graduate medical education training programs throughout the state;

(3) a five-year plan for expanding graduate medical education training programs in the state;

(4) an evaluation of the standards and curriculum guidelines for graduate medical education training programs;

(5) an ongoing evaluation process of funds distributed through the graduate medical education expansion grant program that is overseen by the review board; and

(6) a plan to ensure long-term sustainability.

H. The graduate medical education expansion review board shall review applications to the graduate medical education expansion grant program and provide recommendations to the secretary."

SECTION 71. Section 26-4-1 NMSA 1978 (being Laws 2020, Chapter 45, Section 1) is amended to read:

"26-4-1. SHORT TITLE.--[This act] Chapter 26, Article 4 NMSA 1978 may be cited as the "Wholesale Prescription Drug Importation Act"."

SECTION 72. Section 26-4-3 NMSA 1978 (being Laws 2020, Chapter 45, Section 3) is amended to read:

"26-4-3. ADVISORY COMMITTEE CREATED--MEMBERSHIP--
DUTIES.--

A. The "prescription drug importation advisory committee" is created as an interagency advisory committee of the [department] health care authority. The committee consists of:

(1) the secretary of health care authority, who shall serve as the chair of the committee;
(2) the executive director of the board of pharmacy;
(3) the superintendent of insurance;
(4) the secretary of [human services] health;
and
(5) the secretary of general services.

B. Members may appoint designees.

C. The committee shall advise the [department] health care authority in developing and implementing the program. The committee shall consult with interested stakeholders and appropriate federal officials as necessary in shaping its advice to the [department] authority. The [department] health care authority shall hold a public hearing on the proposed program prior to submitting the program for federal approval."

SECTION 73. Section 27-1-1 NMSA 1978 (being Laws 1977, Chapter 252, Section 16) is amended to read:

"27-1-1. DEFINITIONS.--As used in Articles 1 and 2 of
Chapter 13 NMSA 1953, "department", "department of public
welfare", "state department of public welfare", "New Mexico
department of public welfare", "state board of public welfare",
"board of public welfare", "state board", "state department",
"health and social services department", "department of health
and social services", "health and social services board" [and],
"board" and "human services department" mean the [human
services department] health care authority."

SECTION 74.  Section 27-1-2 NMSA 1978 (being Laws 1937,
Chapter 18, Section 3, as amended) is amended to read:

"27-1-2.  POWERS OF [HUMAN SERVICES DEPARTMENT] HEALTH
CARE AUTHORITY.--
A.  The [human services department] health care
authority is an agency of the state and shall at all times be
under the exclusive control of this state.  The management and
control of the [human services department] health care
authority is vested in the secretary of [human services] health
care authority.

B.  Subject to the constitution of New Mexico, the
[human services department] health care authority has the power
to:

(1) sue and, with the consent of the
legislature, be sued;
(2) adopt and use a corporate seal;
(3) have succession in its corporate name;
(4) make contracts as authorized in Chapter 27 NMSA 1978 to carry out the purposes of that chapter;

(5) adopt, amend and repeal bylaws and rules;

(6) purchase, lease and hold real and personal property necessary or convenient for the carrying out of its powers and duties, to exercise the right of eminent domain to acquire such real property in the same manner as the state now exercises that right and to dispose of any property acquired in any manner;

(7) have such powers as may be necessary or appropriate for the exercise of the powers specifically conferred upon it in Chapter 27 NMSA 1978;

(8) receive and have custody for protection and administration, disburse, dispose of and account for funds, commodities, equipment, supplies and any kind of property given, granted, loaned or advanced to the state for public assistance, public welfare, social security or any other similar purpose;

(9) enter into reciprocal agreements with public welfare agencies of other states relative to the provision for relief or assistance to transients and nonresidents;

(10) establish and administer programs of old age assistance and temporary aid to dependent children.
assistance for needy families and persons with a visual impairment;

(11) establish and administer a program of services for children with a disability or who have a condition that may lead to a disability, and to supervise the administration of those services that are not administered directly by it;

(12) establish, extend and strengthen public welfare services for children; and

(13) establish and administer a program for general relief."

SECTION 75. Section 27-1-3 NMSA 1978 (being Laws 1937, Chapter 18, Section 4, as amended) is amended to read:

"27-1-3. ACTIVITIES OF [HUMAN SERVICES DEPARTMENT] HEALTH CARE AUTHORITY.--The [department] health care authority shall be charged with the administration of all the welfare activities of the state as provided in Chapter 27 NMSA 1978, except as otherwise provided for by law. The [department] health care authority shall, except as otherwise provided by law:

A. administer old age assistance, [aid to dependent children] temporary assistance for needy families, assistance to persons with a visual impairment or other physical disability and general relief;

B. administer all aid or services to children with
a disability, including the extension and improvement of
services for children with such a disability, insofar as
practicable under conditions in this state, provide for
locating children who have a disability or a condition that may
become a disability, provide corrective and any other services
and care and facilities for diagnosis, hospitalization and
after-care for such children and supervise the administration
of those services that are not administered directly by the
[department] health care authority;

[C. administer and supervise all child welfare
activities, service to children placed for adoption, service
and care of homeless, dependent and neglected children, service
and care for children in foster family homes or in institutions
because of dependency or delinquency and care and service to a
child who because of a physical or mental disability may need
such service;

D. formulate detailed plans, make rules [and
regulations] and take action that is deemed necessary or
desirable to carry out the provisions of Chapter 27 NMSA 1978
and that is not inconsistent with the provisions of that
chapter;

[E.] D. cooperate with the federal government in
matters of mutual concern pertaining to public welfare and
public assistance, including the adoption of such methods of
administration as are found by the federal government to be
necessary for the efficient operation of the plan for public
welfare and assistance;

[F.] E. assist other departments, agencies and
institutions of local, state and federal governments when so
requested, cooperate with such agencies when expedient in
performing services in conformity with the purposes of Chapter
27 NMSA 1978 and cooperate with medical, health, nursing and
welfare groups, any state agency charged with the
administration of laws providing for vocational rehabilitation
of persons with a physical disability and organizations within
the state;

[G.] F. act as the agent of the federal government
in welfare matters of mutual concern in conformity with the
provisions of Chapter 27 NMSA 1978 and in the administration of
any federal funds granted to this state, to aid in furtherance
of any such functions of the state government;

[H.] G. establish in counties or in districts,
which may include two or more counties, local units of
administration to serve as agents of the [department] health
care authority;

[I.] H. at its discretion, establish local [boards
of public welfare] offices of the health care authority for
such territory as it may see fit and by rule [and regulation]
prescribe the duties of the local [board] office;

[J.] I. administer such other public welfare
functions as may be assumed by the state after June 19, 1987;

    [K-] J. carry on research and compile statistics
relative to the entire public welfare program throughout the
state, including all phases of dependency, defectiveness,
delinquency and related problems, and develop plans in
cooperation with other public and private agencies for the
prevention as well as treatment of conditions giving rise to
public welfare problems; and

    [L-] K. inspect and require reports from all
private institutions, boarding homes and agencies providing
assistance, care or other direct services to persons who are
elderly, who have a visual impairment, who have a physical or
developmental disability or who are otherwise dependent.

    Nothing contained in this section shall be construed to
authorize the [department] health care authority to establish
or prescribe standards or regulations for or otherwise regulate
programs or services to children in group homes as defined in
Section 9-8-13 NMSA 1978."

SECTION 76. Section 27-1-3.1 NMSA 1978 (being Laws 1980,
Chapter 83, Section 1) is amended to read:

"27-1-3.1. ACUTE CARE BED USAGE--FUNDING

AUTHORIZATION.--The [human services department] health care
authority is authorized to accept and use federal grants or
matching funds for the purpose of reimbursement to certain
rural hospitals for using empty acute care beds for
intermediate care and skilled nursing care, as defined in federal statutes and regulations, subject to federal approval and the availability of funds. The [department] health care authority is authorized to use funds from existing appropriations for matching federal funds for the purposes of this [act] section."

SECTION 77. Section 27-1-8 NMSA 1978 (being Laws 1997, Chapter 237, Section 1) is amended to read:

"27-1-8. STATE CASE REGISTRY.--

A. The [human services department] health care authority, acting as the state's child support enforcement agency pursuant to Title [IV-D] 4-D of the Social Security Act, shall establish a state case registry by October 1, 1998 that contains records with respect to:

(1) each case in which services are being provided on or after October 1, 1998 by the state Title [IV-D] 4-D agency; and

(2) each support order established or modified in the state on or after October 1, 1998, whether or not the order was obtained by the Title [IV-D] 4-D agency.

B. The records maintained by the state case registry shall use standardized data elements for parents, such as names, social security numbers and other uniform identification numbers like dates of birth and case identification numbers and contain such other information, such
as [on] case status, as the United States secretary of [the
United States department of] health and human services may
require.

C. The Title [IV-D] 4-D agency and the
administrative office of the courts shall work cooperatively to
ensure that the requirements of [this act] Laws 1997, Chapter
237 are implemented in an effective, efficient and timely
manner. The [human services department] health care authority
shall reimburse the administrative office of the courts for all
costs incurred in furnishing the information. A cooperative
agreement between the Title [IV-D] 4-D agency and the
administrative office of the courts shall include costs to be
charged by the administrative office of the courts for all work
performed to conform to these requirements. The [human
services department] health care authority shall promptly
provide the administrative office of the courts the data
elements and formats required under Subsection B of this
section as soon as they become available to the [department]
authority.

D. The state case registry shall extract
information from its automated system to share and compare
information with and to receive information from other
databases and information comparison services in order to
obtain or provide information necessary to enable the Title
[IV-D] 4-D agency or the United States secretary of health and
.
human services [department secretary] or other state or federal
agencies to carry out the Title [IV–D] 4–D program, subject to
Section 6103 of the Internal Revenue Code of 1986. Such
information comparison activities shall include the following:

(1) furnishing to the federal case registry of
child support orders established (and update as necessary with
information, including notice of expiration of orders) the
minimum amount of information on child support cases recorded
in the state case registry that is necessary to operate the
federal registry, as specified by the United States secretary
of health and human services [department secretary] in
regulations;

(2) exchanging information with the federal
parent locator service for the purposes specified in the State
Directory of New Hires Act;

(3) exchanging information with [state] New
Mexico agencies [of the state] and agencies of other states
administering programs of temporary assistance for needy
families and medicaid and other programs designated by the
United States secretary of health and human services
[secretary] as necessary to perform state agency
responsibilities under this [part] section and under such
programs; and

(4) exchanging information with other agencies
of the state, agencies of other states and interstate
information networks as necessary and appropriate to carry out
or assist other states to carry out purposes of the Title
[IV-D] 4-D program."

SECTION 78. Section 27-1-13 NMSA 1978 (being Laws 1997,
Chapter 237, Section 33) is amended to read:

"27-1-13. FINANCIAL INSTITUTION DATA MATCHES.--

A. "Financial institution" means:

(1) a depository institution, as defined in
Section 3(c) of the Federal Deposit Insurance Act (12 U.S.C.
1813(c));

(2) an institution-affiliated party, as
defined in Section 3(u) of [such that act (12 U.S.C. 1813(u));

(3) any federal credit union or state credit
union, as defined in Section 101 of the Federal Credit Union
Act (12 U.S.C. 1752), including an institution-affiliated party
of such a credit union, as defined in Section 206(r) of [such]
that act (12 U.S.C. 1786(r)); and

(4) any benefit association, insurance
company, safe deposit company, money-market mutual fund or
similar entity authorized to do business in the state.

B. "Account" means a demand deposit account,
checking or negotiable withdrawal order account, savings
account, time deposit account or money-market mutual fund
account.

C. "Past-due support" means the amount of support
determined under a court order or an order of an administrative process established under state law for support and maintenance of a child or of a child and the parent with whom the child is living [which] that has not been paid.

D. The [human services department] health care authority, acting as the state's child support enforcement agency pursuant to Title [IV-D] 4-D of the Social Security Act, shall enter into agreements with financial institutions doing business in the state to develop and operate, in coordination with such financial institutions, a data match system to be operational by October 1, 2000, using automated data exchanges to the maximum extent feasible, in which each such financial institution is required to provide the information.

E. The [human services department] health care authority shall establish standard procedures and formats for the financial institutions. Such procedures shall include administrative due process for child support obligors before funds or assets may be seized by the [department] health care authority.

F. Each financial institution in New Mexico shall provide to the [human services department] health care authority for each calendar quarter the name, record address, social security number or other taxpayer identification number and other identifying information for each noncustodial parent who maintains an account at such institution and who owes past-
due support, as identified by the [human services department] authority, by name and social security number or other taxpayer identification number.

G. Upon receipt of a notice of lien or levy from the [human services department] health care authority, financial institutions shall encumber and surrender assets held by the institution on behalf of any noncustodial parent who is subject to a child support lien.

H. The [human services department] health care authority may establish and pay a reasonable fee to a financial institution for conducting the data match provided for in this [act] section, not to exceed the actual costs incurred by such financial institutions.

I. A financial institution shall not be liable under any state law to any person for disclosing of information to the [human services department] health care authority under this section or for freezing or surrendering any assets held by [such] the financial institution in response to a notice of lien or seizure issued by the [human services department] authority or for any other action taken in good faith to comply with the requirements of this section.

J. A state child support enforcement agency that obtains a financial record of a person from a financial institution may disclose [such] the financial record only for the purpose of, and to the extent necessary in, establishing,
modifying or enforcing a child support obligation of [such] the
person."

SECTION 79. Section 27-1-16 NMSA 1978 (being Laws 2013,
Chapter 44, Section 1, as amended) is amended to read:

"27-1-16. BRAIN INJURY SERVICES FUND CREATED.--

A. [There is created in the state treasury] The
"brain injury services fund" is created as a nonreverting fund
in the state treasury. The fund shall be invested in
accordance with the provisions of Section 6-10-10 NMSA 1978,
and all income earned on the fund shall be credited to the
fund.

B. The brain injury services fund shall be used to
institute and maintain a statewide brain injury services
program designed to increase the independence of persons with
brain injuries.

C. The [human services department] health care
authority shall adopt all rules [regulations] and policies
necessary to administer a statewide brain injury services
program. The [human services department] authority shall
coordinate with and seek advice from the brain injury advisory
council to ensure that the statewide brain injury services
program is appropriate for persons with brain injuries.

D. All money credited to the brain injury services
fund shall be appropriated to the [human services department
for the purpose of carrying] health care authority to carry out
the provisions of this section [and shall not revert to the general fund].

E. Disbursements from the brain injury services fund shall be made upon warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of [human services] health care authority.

F. For the purposes of this section, "brain injury":

(1) means an injury to the brain of traumatic or acquired origin, including an open or closed head injury caused by:

(a) an insult to the brain from an outside physical force;

(b) anoxia;

(c) electrical shock;

(d) shaken baby syndrome;

(e) a toxic or chemical substance;

(f) near-drowning;

(g) infection;

(h) a tumor;

(i) a vascular lesion; or

(j) an event that results in either temporary or permanent, partial or total impairments in one or more areas of the brain that results in total or partial functional disability, including: 1) cognition; 2) language;
3) memory; 4) attention; 5) reasoning; 6) abstract thinking; 7)
judgment; 8) problem solving; 9) sensory perception and motor
abilities; 10) psychosocial behavior; 11) physical functions;
12) information processing; or 13) speech; and

(2) does not apply to an injury that is:

(a) congenital;
(b) degenerative;
(c) induced by birth trauma;
(d) induced by a neurological disorder
related to the aging process; or
(e) a chemically caused brain injury
that is a result of habitual substance abuse."

SECTION 80. Section 27-2-2 NMSA 1978 (being Laws 1973,
Chapter 376, Section 2, as amended) is amended to read:

"27-2-2. DEFINITIONS.—As used in the Public Assistance
Act:

A. "authority" or "department" means the [human
services department] health care authority;
B. "board" means the [human services department]
authority;
C. "director" means the secretary [of human
services];
D. "local office" means the county or district
office of the [human services department] authority;
E. "medicaid advisory committee" means the body,
established by federal law, that advises the New Mexico medicaid program on policy development and program administration;

F. "medicaid forward plan" means a health care coverage plan that leverages the medicaid program to provide a state-administered health care coverage option;

G. "public welfare" or "public assistance" means any aid or relief granted to or on behalf of an eligible person under the Public Assistance Act and [regulations rules issued pursuant to that act;

H. "applicant" means a person who has applied for assistance or services under the Public Assistance Act;

I. "recipient" means a person who is receiving assistance or services under the Public Assistance Act;

J. "federal act" means the federal Social Security Act, as may be amended from time to time, and regulations issued pursuant to that act; and

K. "secretary" means the secretary of [human services] health care authority."

SECTION 81. Section 27-2-9.1 NMSA 1978 (being Laws 1979, Chapter 401, Section 1, as amended) is amended to read:

"27-2-9.1. ADMINISTRATION OF SHELTER CARE SUPPLEMENT.--

A. A shelter care supplement shall be provided to those [individuals] persons who are recipients of supplemental security income under Title 16 of the federal Social Security
Act and who reside in shelter care homes licensed [pursuant to regulations of the health and environment department] by the authority.

B. The [human services department] authority is authorized to determine eligibility, compute payment, make payments and otherwise administer the shelter care supplement program.

C. The amount of the shelter care supplement payment shall be established by the secretary [of human services] subject to the availability of general funds."

SECTION 82. Section 27-2-12.4 NMSA 1978 (being Laws 1987, Chapter 214, Section 1) is amended to read:

"27-2-12.4. LONG-TERM CARE FACILITIES--NONCOMPLIANCE WITH STANDARDS AND CONDITIONS--SANCTIONS.--

A. In addition to any other actions required or permitted by federal law or regulation, the [human services department] authority shall impose a hold on state medicaid payments to a long-term care facility thirty days after the [health and environment department notifies the human services department in writing pursuant to] authority makes an on-site visit that the long-term care facility is not in substantial compliance with the standards or conditions of participation promulgated by the [federal] United States department of health and human services pursuant to which the facility is a party to a medicaid provider agreement, unless the substantial
noncompliance has been corrected within that thirty-day period or the facility's medicaid provider agreement is terminated or not renewed based in whole or in part on the noncompliance. The written notice shall cite the specific deficiencies that constitute noncompliance.

B. The [human services department] authority shall remove the payment hold imposed under Subsection A of this section when [the health and environment department pursuant to] after an on-site visit, the authority certifies in writing [to the human services department] that the long-term care facility is in substantial compliance with the standards or conditions of participation pursuant to which the facility is a party to a medicaid provider agreement.

C. The [human services department] authority shall not reimburse any long-term care facility during the payment hold period imposed pursuant to Subsection A of this section for any medicaid recipient-patients who are new admissions and who are admitted on or after the day the hold is imposed and prior to the day the hold is removed.

D. If a long-term care facility is certified in writing to be in noncompliance pursuant to Subsection A of this section for the second time in any twelve-month period, the [human services department] authority shall cancel or refuse to execute the long-term care facility's medicaid provider agreement for a two-month period, unless it can be demonstrated
that harm to the patients would result from this action or that
good cause exists to allow the facility to continue to
participate in the medicaid program. The provisions of this
subsection are subject to appeal procedures set forth in
federal regulations for nonrenewal or termination of a medicaid
provider agreement.

E. A long-term care facility shall not charge
medicaid recipient-patients, their families or their
responsible parties to recoup any payments not received because
of a hold on medicaid payments imposed pursuant to this
section.

F. This section shall not be construed to affect
any other provisions for medicaid provider agreement
termination, nonrenewal, due process and appeal pursuant to
federal law or regulation.

G. As used in this section:

(1) "day" means a twenty-four hour period
beginning at midnight and ending one second before midnight;

(2) "long-term care facility" means [any] an
intermediate care facility or skilled nursing facility [which]
that is licensed by the [health and environment department and
which] authority and is medicaid certified;

(3) "new admissions" means medicaid recipients
who have never been in the long-term care facility or, if
previously admitted, had been discharged or had voluntarily
left the facility. The term does not include:

(a) [individuals] persons who were in
the long-term care facility before the effective date of the
hold on medicaid payments and became eligible for medicaid
after that date; and

(b) [individuals] persons who, after a
temporary absence from the facility, are readmitted to beds
reserved for them in accordance with federal regulations; and

(4) "substantial compliance" means the
condition of having no cited deficiencies or having only those
cited deficiencies [which] that:

(a) are not inconsistent with any
federal statutory requirement;

(b) do not interfere with adequate
patient care;

(c) do not represent a hazard to the
patients' health or safety;

(d) are capable of correction within a
reasonable period of time; and

(e) are ones [which] that the long-term
care facility is making reasonable plans to correct."

SECTION 83. Section 27-2-12.7 NMSA 1978 (being Laws
1980, Chapter 86, Section 1) is amended to read:

"27-2-12.7. MEDICAID--[HUMAN SERVICES DEPARTMENT] HEALTH
CARE AUTHORITY EMPLOYEES--STANDARDS OF CONDUCT--ENFORCEMENT.--
A. As used in this section:

1. "business" means a corporation, partnership, sole proprietorship, firm, organization or individual carrying on a business;

2. "authority" or "department" means the health care authority;

3. "employee" means a person who has been appointed to or hired for an authority office connected with the administration of medicaid funds and who receives compensation in the form of salary;

4. "employee with responsibility" means an employee who is directly involved in or has a significant part in the medicaid decision-making, regulatory, procurement or contracting process; and

5. "financial interest" means an interest held by a person, the person's spouse or minor child that is:
   a) an ownership interest in business; or
   b) [any employment or prospective employment for which negotiations have already begun.

B. No employee with responsibility shall, for twenty-four months following the date on which the employee ceases to be an employee, act as agent or attorney for another person or business in connection with a
judicial or administrative proceeding, application, ruling, contract, claim or other matter relating to the medicaid program with respect to which the employee made [any] an investigation, rendered [any] a ruling or was otherwise substantially and directly involved during the last year [he] the employee was an employee and [which] that was actually pending under [his] the employee's responsibility within that period.

C. [No department] The secretary, income support division director or medical assistance [bureau chief] division director or their deputies shall not, for twelve months following the date on which [he] that person ceases to be an employee, participate [in any manner] with respect to a judicial or administrative proceeding, application, ruling, contract, claim or other matter relating to the medicaid program and pending before the [department] authority.

D. [No] An employee with responsibility shall not participate in any manner with respect to a judicial or administrative proceeding, application, ruling, contract, claim or other matter relating to the medicaid program and involving [his] the employee's spouse, minor child or [any] a business in which [he] the employee has a financial interest unless prior to [such] the participation:

(1) full disclosure of [his] the employee's relationship or financial interest is made in writing to the
secretary [of the department]; and

(2) a written determination is made by the secretary that the disclosed relationship or financial interest is too remote or inconsequential to affect the integrity of the services of the employee.

E. Violation of any of the provisions of this section by an employee is grounds for dismissal, demotion or suspension. A former employee who violates [any of the provisions] a provision of this section [shall be] is subject to assessment by the [department] authority of a civil money penalty of two hundred fifty dollars ($250) for each violation. The [department] authority shall promulgate [regulations] rules to provide for an administrative appeal of [any] an assessment imposed."

SECTION 84. Section 27-2-12.20 NMSA 1978 (being Laws 2015, Chapter 61, Section 2, as amended) is amended to read:

"27-2-12.20. CRISIS TRIAGE CENTER--MEDICAL ASSISTANCE REIMBURSEMENT.--

A. In accordance with federal law, the secretary shall adopt and promulgate rules to establish a reimbursement rate for services provided to recipients of state medical assistance at a crisis triage center.

B. As used in this section, "crisis triage center" means a health facility that:

(1) is licensed by the [department of health]
authority; and

(2) provides stabilization of behavioral
health crises and may include residential and nonresidential
stabilization."

SECTION 85. Section 27-2-12.22 NMSA 1978 (being Laws
2015, Chapter 127, Section 2, as amended) is amended to read:

"27-2-12.22. INCARCERATED [INDIVIDUALS] PERSONS--
MEDICAID ELIGIBILITY--COUNTY JAIL TECHNICAL ASSISTANCE--
PRESUMPTIVE ELIGIBILITY DETERMINER TRAINING AND
CERTIFICATION.--

A. Incarceration shall not be a basis to deny or
terminate eligibility for medicaid.

B. Upon release from incarceration, a formerly
incarcerated [individual] person shall remain eligible for
medicaid until the [individual] person is determined to be
ineligible for medicaid on grounds other than incarceration.

C. An incarcerated [individual] person who was not
enrolled in medicaid upon the date that the [individual] person
became incarcerated shall be permitted to submit an application
for medicaid during the incarcerated [individual's] person's
period of incarceration.

D. The provisions of this section shall not be
construed to abrogate:

(1) any deadline that governs the processing
of applications for medicaid pursuant to existing federal or
state law; or

(2) requirements under federal or state law
that the [human services department] authority be notified of
changes in income, resources, residency or household
composition.

E. The provisions of this section shall not require
the [human services department] authority to pay for services
on behalf of any incarcerated [individual] person except as
permitted by federal law.

F. A correctional facility shall:

(1) inform the [human services department] 
authority when an eligible [individual] person is incarcerated;

(2) facilitate, with assistance from the 
[department] authority, eligibility determinations for medicaid
during the incarcerated [individuals'] person's incarceration
or upon release;

(3) notify the [department] authority upon an
eligible [individual's] person's release; and

(4) facilitate the [department's] authority's
or any [department] authority contractor's provision of care
coordination pursuant to the provisions of Section [2 of this

G. Upon the written request of a county, the 
[department] authority shall provide a behavioral health
screening tool to facilitate screenings performed in accordance

with the provisions of Subsection A of Section [2 of this 2018 act] 33-1-22 NMSA 1978, technical assistance and training and certification of county jail presumptive eligibility determiners to a county jail.

H. The secretary [of human services] shall adopt and promulgate rules consistent with this section.

I. As used in this section:

   (1) "care coordination" means an assessment for health risks and the creation of a plan of care to address [an individual's] a person's comprehensive health needs, including access to physical health care and mental health services; substance use disorder treatment; and transportation services;

   (2) "eligibility" means a finding by the [human services department] authority that [an individual] a person has met the criteria established in state and federal law and the requirements established by [department] authority rules to enroll in medicaid;

   (3) "incarcerated [individual] person" means [an individual] a person, the legal guardian or conservator of [an individual] a person or, for [an individual] a person who is an unemancipated minor, the parent or guardian of the [individual] person, who is confined in any of the following correctional facilities:

(a) a state correctional facility;
(b) a privately operated correctional facility;

(c) a county jail;

(d) a privately operated jail;

(e) a detention facility that is operated under the authority of the children, youth and families department and that holds the person pending a court hearing; or

(f) a facility that is operated under the authority of the children, youth and families department and that provides for the care and rehabilitation of a person who is under eighteen years of age and who has committed an act that would be designated as a crime under the law if committed by a person who is eighteen years of age or older;

(4) "medicaid" means the joint federal-state health coverage program pursuant to Title 19 or Title 21 of the federal Social Security Act and rules promulgated pursuant to that act; and

(5) "unemancipated minor" means a person who is under eighteen years of age and who:

(a) is not on active duty in the armed forces; and

(b) has not been declared by court order
to be emancipated."

SECTION 86. Section 27-2-15 NMSA 1978 (being Laws 1937, Chapter 18, Section 9) is amended to read:

"27-2-15. COOPERATION WITH THE UNITED STATES.--

A. The [state department is hereby] authority is designated as the state agency to cooperate with the federal government in the administration of the provisions of Title 1, Title 4, [part] Parts 2 and 3 of Title 5 and Title 10 of the federal Social Security Act. The [state board is hereby authorized and directed to] authority shall cooperate with the proper departments of the federal government and with all other departments of the state and local governments in the enforcement and administration of [such] those provisions of the federal Social Security Act and [any amendments thereto and the rules and regulations issued thereunder and in compliance therewith] rules adopted in accordance with that act in the manner prescribed in [this act] Chapter 27 NMSA 1978 or as otherwise provided by law.

B. The [department] authority shall [also] make reports in such form and containing such information as any agency or instrumentality of the United States with which it is cooperating may [from time to time] require and shall comply with such provisions as [any such] that agency or instrumentality may [from time to time] find necessary to assure the correctness and verification of [such] the reports."
SECTION 87. Section 27-2-16 NMSA 1978 (being Laws 1974, Chapter 31, Section 1, as amended) is amended to read:

"27-2-16. COMPLIANCE WITH FEDERAL LAW.--

A. Subject to the availability of state funds, the [human services department] authority may provide assistance to aged, blind or disabled [individuals] persons in the amounts consistent with federal law to enable the state to be eligible for medicaid funding. [Individuals] Persons shall be determined to be aged, blind or disabled according to [regulations of the human services department] rules of the authority.

B. If drug product selection is permitted by Section 26-3-3 NMSA 1978, reimbursement by the medicaid program shall be limited to the wholesale cost of the lesser expensive therapeutic equivalent drug generally available in New Mexico plus a reasonable dispensing fee of at least three dollars sixty-five cents ($3.65)."

SECTION 88. Section 27-2-17 NMSA 1978 (being Laws 1937, Chapter 18, Section 10) is amended to read:

"27-2-17. CUSTODIAN OF FUNDS.--The [state department] authority is [hereby] designated as the custodian [subject to the provisions of Section 21 of this act] of [any and] all [monies which may be] money received by the state [of New Mexico], which the [state board of public welfare] authority is authorized to administer, from any appropriations made by the
congress of the United States for the purpose of cooperating
with the several states in the enforcement and administration
of the provisions of the federal Social Security Act [referred
to in Section 9] and all [monies] money received from any other
source for the purposes set forth in [this act] Chapter 27 NMSA
1978. The [state department] authority is [hereby] authorized
to receive such [monies] money, provide for [the] its proper
custody [thereof] and [to] make disbursements [therefrom] of it
under such rules [and regulations] as the [state board]
authority may prescribe."

SECTION 89. Section 27-2-25 NMSA 1978 (being Laws 1937,
Chapter 18, Section 11j, as amended) is amended to read:

"27-2-25. FUNERAL EXPENSES.--

A. On the death of:

(1) a recipient of financial assistance under
Section [13-17-9 or Section 13-17-10 NMSA 1953] 27-2-6 or
27-2-7 NMSA 1978 or under the federal supplemental security
income program; or

(2) [an individual] a person living in a
nursing home or an intermediate care facility, the payment for
whose care is made in whole or in part pursuant to Title 19 of
the federal Social Security Act;

funeral expenses up to two hundred dollars ($200) shall be paid
by the [health and social services department] income support
division of the authority if the deceased's available
resources, as defined by [regulation] rule of the [board] division, are insufficient to pay the funeral expenses, the persons legally responsible for the support of the deceased are unable to pay the funeral expenses and no other person will undertake to pay [said] those expenses.

B. No payment shall be made by the [department] income support division when resources available from all sources to pay the funeral expenses total six hundred dollars ($600) or more. When the resources are less than six hundred dollars ($600), the [department] division shall pay the difference between six hundred dollars ($600) and the resources, or two hundred dollars ($200), whichever is less."

SECTION 90. Section 27-2-26 NMSA 1978 (being Laws 1975, Chapter 220, Section 2) is amended to read:

"27-2-26. MONEY RECEIVED FROM OTHER SOURCES--DUTY AND LIABILITY OF FUNERAL DIRECTOR.--Should any funeral director accept payment from sources other than the [department] income support division of the authority for burial of a deceased person for whom a claim for burial expenses has been made to the [department he] division, the funeral director shall immediately notify the [department] division of [said] the payment. The [department will] division shall consider [said] the payment in determining the amount of any funeral expense payment it makes. If the [department] division has already made payment, the funeral director shall refund to the
[department] division any excess over the amount [which] that the [department] division would have paid had it known of the payment from other sources. If any funeral director [shall fail] fails to notify the [department] division of any such payment from other sources, [he] the funeral director shall be liable to the [department] division in an amount double the amount paid or to be paid by the [department] division."

SECTION 91. Section 27-2-27 NMSA 1978 (being Laws 1981, Chapter 90, Section 1, as amended) is amended to read:

"27-2-27. SINGLE STATE AGENCY--POWERS AND DUTIES.--

A. The [department] authority is designated as the single state agency for the enforcement of child and spousal support obligations pursuant to Title [Iv-D] 4-D of the federal Social Security Act with the following duties and powers to:

(1) establish the paternity of a child in the case of the child born out of wedlock with respect to whom an assignment of support rights has been executed in favor of the [department] authority;

(2) establish an order of support for children receiving aid [to families with dependent children] from temporary assistance for needy families and, at the option of the [department] authority, for the spouse or former spouse with whom such children are living, but only if a support obligation has been established with respect to such spouse or former spouse, for whom no order of support currently exists.
and seek modification, based upon the noncustodial parent's ability to pay, of existing orders in which the support order is inadequate to properly care for the child and the spouse or former spouse with whom the child is living;

(3) enforce as the real party in interest any existing order for the support of children who are receiving [aid to families with dependent children] temporary assistance for needy families or of the spouse or former spouse with whom such children are living;

(4) provide services to non-aid families with dependent children in the establishment and enforcement of paternity and child support obligations, including locating the absent parent. For these services, the [department] authority is authorized to establish and collect fees, costs and charges permitted or required by federal law or by regulations adopted pursuant to that federal law; and

(5) adopt [regulations] rules for the disposition of unclaimed child, spousal or medical support payments.

B. In all cases handled by the [department] authority pursuant to the provisions of this section, the child support enforcement division or an attorney employed by the division represent the [department] authority, to the exclusion of any other party, in establishing, modifying and enforcing support obligations.
C. An attorney employed to provide the Title [IV-D] 4-D services represents only the [department's] authority's interests, and no attorney-client relationship shall exist between the attorney and another party.

D. The [department] authority shall, at the time an application for child support services is made, inform the applicant that neither the Title [IV-D] 4-D agency nor the attorney who provides services under this section is the applicant's attorney and that the attorney who provides services under this section shall not provide legal representation to the applicant.

E. The [department] authority may initiate an action or may intervene in an action involving child support.

F. The attorney employed by the [department] authority pursuant to this section shall not act as a guardian ad litem for the applicant.

G. A court shall not disqualify the [department] authority in a legal action filed pursuant to the Support Enforcement Act of the federal Social Security Act because the [department] authority has previously provided services to a party whose interests are now adverse to the relief requested."

SECTION 92. Section 27-2-28 NMSA 1978 (being Laws 1981, Chapter 90, Section 2, as amended) is amended to read:

"27-2-28. LIABILITY FOR REPAYMENT OF PUBLIC ASSISTANCE.--
A. In cases where the department authority has provided cash assistance to children in a household, the court shall award judgment in favor of the department authority and against the noncustodial parents of the children for child support, calculated pursuant to Section 40-4-11.1 NMSA 1978, for all months in which the children received cash assistance benefits.

B. Equitable defenses available to the noncustodial parent in claims by the custodian for retroactive support or past due support shall not operate to deprive the department authority of its right to request retroactive support or past due support for months during which the noncustodial parent's children received cash assistance benefits.

C. Amounts of support collected that are in excess of the amounts specified in Subsections A and B of this section shall be paid by the department authority to the custodian of the child.

D. No agreement between any custodian of a child and a parent of that child, either relieving the parent of any duty of child or spousal support or responsibility or purporting to settle past, present or future support obligations, either as a settlement or prepayment, shall act to reduce or terminate any rights of the department authority to recover from that parent for support provided, unless the department authority has consented to the agreement in .226491.1GLG
writing.

E. The noncustodial parent shall be given credit for any support actually provided, including housing, clothing, food or funds paid prior to the entry of any order for support. The noncustodial parent has the burden to prove that the noncustodial parent has provided any support.

F. An application for public assistance by any person constitutes an assignment by operation of law of any support rights the person is entitled to during the time the person's household receives public assistance, whether the support rights are owed to the applicant or to any family member for whom the applicant is applying for or receiving assistance. The assignment includes all support rights that accrue as long as the applicant receives public assistance.

G. By operation of law, an assignment to the [department] authority of any and all rights of an applicant for or recipient of medical assistance under the medicaid program in New Mexico or supplemental security income through the social security administration:

(1) is deemed to be made of:

(a) any payment for medical care from any natural person, firm or corporation, including an insurance carrier; and

(b) any recovery for personal injury, whether by judgment or contract for compromise or settlement;
(2) shall be effective to the extent of the amount of medical assistance actually paid by the [department] authority under the medicaid program; and

(3) shall be effective as to the rights of any other [individuals] persons who are eligible for medical assistance and whose rights can legally be assigned by the applicant or recipient.

H. An applicant or recipient is required to cooperate fully with the [department] authority in its efforts to secure the assignment and to execute and deliver any instruments and papers deemed necessary to complete the assignment by the [department] authority."

SECTION 93. Section 27-2-29.1 NMSA 1978 (being Laws 2010, Chapter 80, Section 1) is amended to read:

"27-2-29.1. COMPENSATION UNDER CONTINGENT FEE CONTRACTS--SUSPENSE FUND CREATED.--

A. [For the purpose of making] To make disbursements and distributions pursuant to this section, the "[human services department] health care authority reimbursement suspense fund" is created in the state treasury.

B. When pursuing a claim arising under Section 27-2-23 or 27-2-28 NMSA 1978, in addition to other available alternatives, the [department] authority may contract with a person to represent the [department] authority on a contingent fee basis if the contract:
(1) is approved by the attorney general;

(2) provides that all amounts received by the contractor as satisfaction of the claim shall be transferred to the [department] authority and deposited into the [human services department] health care authority reimbursement suspense fund to the credit of the [department] authority; and

(3) provides that, upon the direction of the secretary [of human services], the compensation due to the contractor shall be disbursed from the suspense fund to the contractor.

C. After a disbursement to a contractor pursuant to Paragraph (3) of Subsection B of this section, the balance of each deposit into the [human services department] health care authority reimbursement suspense fund shall be distributed to the general fund and shall be appropriated to the [department for the purpose of reimbursing the department] authority to reimburse the authority for the public assistance from which the claim arose and, if required, for reimbursing the federal government."

SECTION 94. Section 27-2-31 NMSA 1978 (being Laws 1965, Chapter 66, Section 4) is amended to read:

"27-2-31. JUDGMENTS AND PROCEEDS.--Upon final hearing, judgment for the [department] authority shall include all sums expended during the pendency of the action. When the [department of public welfare] authority recovers judgments
1 under [this act] Chapter 27, Article 2 NMSA 1978, it may
2 enforce, compromise or settle the judgments in any way
3 considered by the [board of public welfare] authority to be in
4 the public interest. Any proceeds of judgments or settlements
5 shall be retained by the [department] authority for its
6 authorized activities and required reimbursements to the
7 federal government."

SECTION 95. Section 27-2-32 NMSA 1978 (being Laws 1969,
8 Chapter 182, Section 3, as amended) is amended to read:
9 "27-2-32. DUTY OF AGENCIES TO COOPERATE.--All state,
10 county and municipal agencies, departments, bureaus and
11 divisions shall cooperate in the location of absent parents who
12 are not fulfilling their obligation to support their children
13 and shall on request supply the [department] authority with all
14 information on hand relative to the location, social security
15 number, income and property of such absent parents,
16 notwithstanding any other provision of law making the
17 information confidential. The [department] authority shall use
18 such information only for the purpose of enforcing the support
19 liability of such absent parents and shall not use the
20 information or disclose it for any other purpose."

SECTION 96. Section 27-2-41 NMSA 1978 (being Laws 1990,
22 Chapter 93, Section 1) is amended to read:
23 "27-2-41. SHORT TITLE.--[This act] Sections 27-2-41
24 through 27-2-47 NMSA 1978 may be cited as the "Indigent
25 .226491.1GLG
Catastrophic Illness Hospital Funding Act."

SECTION 97. Section 27-2-43 NMSA 1978 (being Laws 1990, Chapter 93, Section 3) is amended to read:

"27-2-43. DEFINITIONS.--As used in the Indigent Catastrophic Illness Hospital Funding Act:

A. "authority" or "department" means the [human services department] health care authority;

B. "fund" means the indigent catastrophic illness hospital fund;

C. "hospital" means any general or special hospital that is licensed by the [health and environment department] authority and that has annual gross charges for medicare, medicaid and indigent patients greater than ten percent of the hospital's total annual gross charges; and

D. "medically indigent patient" means [an individual] a person who is a New Mexico resident who incurs hospital charges, who is not eligible for medicaid or medicare and whose family or household income does not exceed two hundred fifty percent of the federal poverty level."

SECTION 98. Section 27-2-44 NMSA 1978 (being Laws 1990, Chapter 93, Section 4) is amended to read:

"27-2-44. INDIGENT CATASTROPHIC ILLNESS HOSPITAL FUND CREATED.--[There is created in the state treasury] The "indigent catastrophic illness hospital fund" is created as a nonreverting fund in the state treasury. Money in the fund is
appropriated to the [department for the purpose of reimbursing] authority to reimburse hospitals for eligible claims for hospital charges incurred by medically indigent patients and for paying administrative costs of the [department] authority not to exceed three percent of the annual appropriation or other distribution or transfer to the fund. Money in the fund shall be invested as provided for other state funds and income earned on the fund shall be credited to the fund. [No balance remaining at the end of any fiscal year shall revert to the general fund.]

SECTION 99. Section 27-2A-1 NMSA 1978 (being Laws 1994, Chapter 87, Section 1) is amended to read:

"27-2A-1. SHORT TITLE.--[This act] Chapter 27, Article 2A NMSA 1978 may be cited as the "Medicaid Estate Recovery Act"."

SECTION 100. Section 27-2A-3 NMSA 1978 (being Laws 1994, Chapter 87, Section 3) is amended to read:

"27-2A-3. DEFINITIONS.--As used in the Medicaid Estate Recovery Act:

A. "authority" or "department" means the [human services department] health care authority;

B. "estate" means real and personal property and other assets of the individual subject to probate or administration pursuant to the provisions of the Uniform Probate Code; and

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C. "medical assistance" means amounts paid by the department as medical assistance pursuant to Title [XIX] 19 of the Social Security Act."

SECTION 101. Section 27-2B-3 NMSA 1978 (being Laws 1998, Chapter 8, Section 3 and Laws 1998, Chapter 9, Section 3, as amended) is amended to read:

"27-2B-3. DEFINITIONS.--As used in the New Mexico Works Act:

A. "applicant" means a person applying for cash assistance on behalf of a benefit group;

B. "benefit group" means a pregnant woman or a group of people that includes a dependent child, all of that dependent child's full, half or adopted siblings or stepsiblings living with the dependent child's parent or relative within the fifth degree of consanguinity and the parent with whom the children live;

C. "cash assistance" means cash payments funded by the temporary assistance for needy families block grant pursuant to the federal Social Security Act and by state funds;

D. "authority" or "department" means the [human services department] health care authority;

E. "dependent child" means a natural child, adopted child, stepchild or ward who is:

(1) seventeen years of age or younger;

(2) eighteen years of age and is enrolled in
high school; or

(3) between eighteen and twenty-two years of age and is receiving special education services regulated by the public education department;

F. "director" means the director of the income support division of the [department] authority;

G. "earned income" means cash or payment in kind that is received as wages from employment or payment in lieu of wages; and earnings from self-employment or earnings acquired from the direct provision of services, goods or property, production of goods, management of property or supervision of services;

H. "federal act" means the federal Social Security Act and rules promulgated pursuant to the Social Security Act;

I. "federal poverty guidelines" means the level of income defining poverty by family size published annually in the federal register by the United States department of health and human services;

J. "immigrant" means an alien as defined in the federal act;

K. "parent" means natural parent, adoptive parent or stepparent;

L. "participant" means a recipient of cash assistance or services or a member of a benefit group who has reached the age of majority;
M. "person" means an individual;
N. "secretary" means the secretary of [the department] health care authority;
O. "services" means child care assistance; payment for employment-related transportation costs; job search assistance; employment counseling; employment, education and job training placement; one-time payment for necessary employment-related costs; case management; or other activities whose purpose is to assist transition into employment;
P. "unearned income" means old age, survivors and disability insurance; railroad retirement benefits; veterans administration compensation or pension; military retirement; pensions, annuities and retirement benefits; lodge or fraternal benefits; shared shelter payments; settlement payments; individual Indian money; child support; unemployment compensation benefits; union benefits paid in cash; gifts and contributions; and real property income;
Q. "vehicle" means a conveyance for the transporting of [individuals] persons to or from employment, for the activities of daily living or for the transportation of goods; "vehicle" does not include any boat, trailer or mobile home used as a principal place of residence; and
R. "vocational education" means an organized educational program that is directly related to the preparation of a person for employment in a current or emerging occupation
requiring training other than a baccalaureate or advanced degree. Vocational education [must] shall be provided by an educational or a training organization, such as a vocational-technical school, community college, post-secondary educational institution or proprietary school."

**SECTION 102.** Section 27-2C-1 NMSA 1978 (being Laws 2002, Chapter 105, Section 1) is amended to read:

"27-2C-1. SHORT TITLE.--[This act] Chapter 27, Article 2C NMSA 1978 may be cited as the "Pharmaceutical Supplemental Rebate Act"."

**SECTION 103.** Section 27-2C-2 NMSA 1978 (being Laws 2002, Chapter 105, Section 2) is amended to read:

"27-2C-2. DEFINITIONS.--As used in the Pharmaceutical Supplemental Rebate Act:

A. "authority" or "department" means the [human services department] health care authority;

B. "labeler" means a person that receives prescription drugs from a manufacturer or wholesaler and repackages those drugs for later retail sale and that has a labeler code from the federal food and drug administration;

C. "manufacturer" means a manufacturer of prescription drugs as defined in 42 U.S.C. 1396r-8(k)(5), including a subsidiary or affiliate of a manufacturer;

D. "medicaid" means the joint federal-state health coverage program pursuant to Title 19 or Title 21 of the
federal Social Security Act;

E. "participating retail pharmacy" means a retail pharmacy or other business licensed to dispense prescription drugs that participates in the state medicaid program;

F. "secretary" means the secretary of [human services] health care authority; and

G. "wholesaler" means a business licensed to distribute prescription drugs in the state."

SECTION 104. Section 27-2D-2 NMSA 1978 (being Laws 2003, Chapter 317, Section 2, as amended) is amended to read:

"27-2D-2. DEFINITIONS.--As used in the Education Works Act:

A. "applicant" means a person applying for cash assistance on behalf of a benefit group;

B. "benefit group" means a pregnant woman or a group of people that includes a dependent child, all of that dependent child's full, half, step- or adopted siblings living with the dependent child's parent or relative within the fifth degree of consanguinity and the parent with whom the children live;

C. "cash assistance" means cash payments distributed by the [department] authority pursuant to the Education Works Act;

D. "authority" or "department" means the [human services] department health care authority;
E. "dependent child" means a natural, adopted step-child or ward who is:

(1) seventeen years of age or younger;

(2) eighteen years of age and is enrolled in high school; or

(3) between eighteen and twenty-two years of age and is receiving special education services regulated by the public education department;

F. "director" means the director of the income support division of the [department] authority;

G. "earned income" means cash or payment in kind that is received as wages from employment or payment in lieu of wages; and earnings from self-employment or earnings acquired from the direct provision of services, goods or property, production of goods, management of property or supervision of services;

H. "education works program" means the cash assistance, activities and services available to a recipient pursuant to the Education Works Act;

I. "federal act" means the federal Social Security Act and rules promulgated pursuant to the Social Security Act;

J. "federal poverty guidelines" means the level of income defining poverty by family size published annually in the federal register by the United States department of health and human services;
K. "parent" means natural parent, adoptive parent or stepparent;

L. "person" means an individual;

M. "recipient" means a person who receives cash assistance or services or a member of a benefit group who has reached the age of majority;

N. "secretary" means the secretary of [human services] health care authority;

O. "services" means child-care assistance; payment for education- or employment-related transportation costs; job search assistance; employment counseling; employment, education and job training placement; an annual payment for education-related costs; case management; or other activities whose purpose is to assist transition into employment;

P. "unearned income" means old age, survivors and disability insurance; railroad retirement benefits; veterans administration compensation or pension; military retirement; pensions, annuities and retirement benefits; lodge or fraternal benefits; shared shelter payments; settlement payments; individual Indian money; child support; unemployment compensation benefits; union benefits paid in cash; gifts and contributions; and real property income; and

Q. "vehicle" means a conveyance for the transporting of persons to or from employment or education for the activities of daily living or for the transportation of
goods; "vehicle" does not include boats, trailers or mobile homes used as a principal place of residence."

SECTION 105. Section 27-2E-1 NMSA 1978 (being Laws 2003, Chapter 381, Section 1) is amended to read:

"27-2E-1. AVERAGE MANUFACTURER PRICE--FILING--REPORTING.--

A. A person who manufactures a prescription drug, including a generic prescription drug, that is sold in New Mexico shall file with the [human services department] health care authority:

(1) the average manufacturer price for the drug;

(2) the price that each wholesaler or pharmacy benefit manager doing business in this state pays the manufacturer to purchase the drug; and

(3) the price paid to the manufacturer by any entity in an arrangement or contract that sells or provides prescription drugs in New Mexico without the services of a wholesaler.

B. The information required under Subsection A of this section shall be filed annually or more frequently, as determined by the [human services department] health care authority. The information required under Subsection A of this section is confidential and shall not be disclosed pursuant to Section [3 of this act] 27-2E-3 NMSA 1978 and shall not be
subject to public inspection pursuant to the provisions of
Section 14-2-1 NMSA 1978.

C. A person who engages in the wholesale
distribution of prescription drugs in New Mexico shall file
with the [human services department] health care authority
information showing the actual price at which the wholesaler or
distributor sells a particular drug to a pharmacy.

D. As used in this section, "average manufacturer
price" means the average price paid to the manufacturer for the
drug in New Mexico, including rebates, discounts and market
incentives, after deducting customary prompt-pay discounts."

SECTION 106. Section 27-2E-2 NMSA 1978 (being Laws 2003,
Chapter 381, Section 2) is amended to read:

"27-2E-2. UNLAWFUL DISCLOSURE--PENALTIES.--

A. It is unlawful for an employee, former employee,
contractor or former contractor of the [human services
department] health care authority to reveal to another person,
except to another employee or contractor of the [department]
authority as required by the employee's or contractor's duties
or responsibilities or by state or federal court order,
information acquired pursuant to Section [1 of this act]
27-2E-1 NMSA 1978 or any other information about a prescription
drug manufacturer acquired as a result of [his] employment or
contract by the [department] authority and not available from
public sources.

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B. An employee, former employee, contractor or former contractor of the health care authority who reveals to another person information that he is prohibited from lawfully revealing is guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than one thousand dollars ($1,000) or imprisoned not more than one year, or both, together with costs of prosecution, and shall not be employed by the state for a period of five years after the date of the conviction."

SECTION 107. Section 27-2E-3 NMSA 1978 (being Laws 2003, Chapter 381, Section 3) is amended to read:

"27-2E-3. ENFORCEMENT.--The office of the attorney general may take action to investigate and enforce the requirements of Sections 1 and 2 of this act 27-2E-1 and 27-2E-2 NMSA 1978."

SECTION 108. Section 27-3-1 NMSA 1978 (being Laws 1973, Chapter 256, Section 1) is amended to read:

"27-3-1. SHORT TITLE.--[This act] Chapter 27, Article 3 NMSA 1978 may be cited as the "Public Assistance Appeals Act"."
social services division] of the [human services department] health care authority;

B. "board" means the income support division or the medical assistance division [or the social services division] of the [human services department] authority; and

C. "director" means the director of the income support division or the medical assistance division [or the social services division] of the [human services department] authority."

SECTION 110. Section 27-4-1 NMSA 1978 (being Laws 1973, Chapter 311, Section 1) is amended to read:

"27-4-1. SHORT TITLE.--[Sections 1 through 7 of this act] Chapter 27, Article 4 NMSA 1978 may be cited as the "Special Medical Needs Act"." 

SECTION 111. Section 27-4-2 NMSA 1978 (being Laws 1973, Chapter 311, Section 2, as amended) is amended to read:

"27-4-2. DEFINITIONS.--As used in the Special Medical Needs Act:

A. "department" or "division" means the income support division of the [human services department] health care authority;

B. "board" means the division;

C. "aged person" means a person who has attained the age of sixty-five years and does not have a spouse financially able, according to [regulations] rules of the
division, to furnish support;

D. "person with a disability" means a person who has attained the age of eighteen years and is determined to have a permanent and total disability, according to [regulations] rules of the division; and

E. "blind person" means a person who is determined to be blind according to [regulations] rules of the division."

SECTION 112. Section 27-5-4 NMSA 1978 (being Laws 1965, Chapter 234, Section 4, as amended) is amended to read:

"27-5-4. DEFINITIONS.--As used in the Indigent Hospital and County Health Care Act:

A. "ambulance provider" or "ambulance service" means a specialized carrier based within the state authorized under provisions and subject to limitations as provided in individual carrier certificates issued by the department of transportation to transport persons alive, dead or dying en route by means of ambulance service. The rates and charges established by department of transportation tariff shall govern as to allowable cost. Also included are air ambulance services approved by the county. The air ambulance service charges shall be filed and approved pursuant to Subsection D of Section 27-5-6 NMSA 1978 and Section 27-5-11 NMSA 1978;

B. "cost" means all allowable costs of providing health care services, to the extent determined by resolution of a county, for an indigent patient. Allowable costs shall be
based on medicaid fee-for-service reimbursement rates for
hospitals, licensed medical doctors and osteopathic physicians;

C. "county" means a county except a class A county
with a county hospital operated and maintained pursuant to a
lease or operating agreement with a state educational
institution named in Article 12, Section 11 of the constitution
of New Mexico;

D. "department" or "authority" means the [human
services department] health care authority;

E. "fund" means a county health care assistance
fund;

F. "health care services" means treatment and
services designed to promote improved health in the county
indigent population, including primary care, prenatal care,
dental care, behavioral health care, alcohol or drug
detoxification and rehabilitation, hospital care, provision of
prescription drugs, preventive care or health outreach
services, to the extent determined by resolution of the county;

G. "indigent patient" means a person to whom an
ambulance service, a hospital or a health care provider has
provided medical care, ambulance transportation or health care
services and who can normally support the person's self and the
person's dependents on present income and liquid assets
available to the person but, taking into consideration the
person's income, assets and requirements for other necessities
of life for the person and the person's dependents, is unable
to pay the cost of the ambulance transportation or medical care
administered or both; provided that if a definition of
"indigent patient" is adopted by a county in a resolution, the
definition shall not include any person whose annual income
together with that person's spouse's annual income totals an
amount that is fifty percent greater than the per capita
personal income for New Mexico as shown for the most recent
year available in the survey of current business published by
the United States department of commerce. "Indigent patient"
includes a minor who has received ambulance transportation or
medical care or both and whose parent or the person having
custody of that minor would qualify as an indigent patient if
transported by ambulance, admitted to a hospital for care or
treated by a health care provider;

H. "medicaid eligible" means a person who is
eligible for medical assistance from the department;

I. "planning" means the development of a countywide
or multicounty health plan to improve and fund health services
in the county based on the county's needs assessment and
inventory of existing services and resources and that
demonstrates coordination between the county and state and
local health planning efforts;

J. "public entity" means a state, local or tribal
government or other political subdivision or agency of that
government; and

K. "qualifying hospital" means an acute care
general hospital licensed by the [department of health]
authority that is qualified to receive payments from the safety
net care pool pursuant to an agreement with the federal centers
for medicare and medicaid services."

SECTION 113. Section 27-5-6.1 NMSA 1978 (being Laws
1993, Chapter 321, Section 18, as amended) is amended to read:

"27-5-6.1. SAFETY NET CARE POOL FUND CREATED.--

A. The "safety net care pool fund" is created as a
nonreverting fund in the state treasury. The safety net care
pool fund, which shall be administered by the [department]
authority, shall consist of public [funds] money provided
through intergovernmental transfers from counties or other
public entities and transferred from counties pursuant to
Section [16 of this 2014 act] 27-5-6.2 NMSA 1978. Money in the
fund shall be invested by the state treasurer as other state
funds are invested. [Any unexpended or unencumbered balance
remaining in the fund at the end of any fiscal year shall not
revert.]

B. Money in the safety net care pool fund is
appropriated to the [department] authority to make payments to
qualifying hospitals. No safety net care pool fund payments or
money in the safety net care pool fund shall be used to
supplant any general fund support for the state medicaid
program."

SECTION 114. Section 27-5-16 NMSA 1978 (being Laws 1965, Chapter 234, Section 16, as amended) is amended to read:

"27-5-16. [DEPARTMENT] AUTHORITY--PAYMENTS--

COOPERATION--REPORTING.--

A. The [department] authority shall not decrease the amount of any assistance payments made to the hospitals or health care providers of this state pursuant to law because of any financial reimbursement made to ambulance services, hospitals or health care providers for indigent or medicaid eligible patients as provided in the Indigent Hospital and County Health Care Act.

B. The [department] authority shall cooperate with each county in furnishing information or assisting in the investigation of any person to determine whether the person meets the qualifications of an indigent patient as defined in the Indigent Hospital and County Health Care Act.

C. The [department] authority shall provide an annual report to each county and each qualifying hospital on the previous calendar year's payments from the safety net care pool for uncompensated care to qualifying hospitals and estimated payments of enhanced medicaid base rates. The annual report for the previous year shall be provided by July 1 of the succeeding year."

SECTION 115. Section 27-6-13 NMSA 1978 (being Laws .226491.1GLG

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1979, Chapter 290, Section 3, as amended) is amended to read:

"27-6-13. ADMINISTRATION OF LOW INCOME UTILITY

ASSISTANCE ACT.--

A. As used in the Low Income Utility Assistance

Act:

(1) "authority" or "department" means the
[agency of the state designated by the governor] health care
authority; and

(2) "utility" means a publicly, privately or
municipally owned utility or a distribution cooperative
utility for the rendition of electric power or gas.

B. The [department] authority shall determine
eligibility, establish payment amounts, make utility
assistance payments to or on behalf of eligible recipients and
otherwise administer the Low Income Utility Assistance Act.

C. The [department] authority shall use funds
appropriated under the Low Income Utility Assistance Act to
the maximum extent to generate available federal and local
government funds and to mobilize other resources that may be
applied to the concepts of the Low Income Utility Assistance
Act."

SECTION 116. Section 27-6-14 NMSA 1978 (being Laws
1979, Chapter 290, Section 4, as amended) is amended to read:

"27-6-14. PERSONS ELIGIBLE FOR UTILITY ASSISTANCE.--

A. Utility assistance supplements shall be paid to
or on behalf of those \underline{individuals} persons who are determined to be eligible by \underline{regulation} rule of the [department] authority.

B. The [department] authority shall determine the amount of payment to be made; provided that no payment shall be made if a payment for the same services or incurred bills has been made to the household under a federal program for a similar purpose."

SECTION 117. Section 27-6-15 NMSA 1978 (being Laws 1979, Chapter 290, Section 5, as amended) is amended to read:

"27-6-15. UTILITY ASSISTANCE SUPPLEMENT PROGRAM ESTABLISHED--DISTRIBUTION TO ELIGIBLE RECIPIENTS.--

A. The [department] authority is authorized to establish a utility assistance supplement program for purposes of the Low Income Utility Assistance Act.

B. Beginning on July 1, 1980 and each year thereafter, the [department] authority shall pay utility assistance supplement payments, subject to the availability of funds from the low income utility assistance fund created under the provisions of Section 27-6-16 NMSA 1978."

SECTION 118. Section 27-6-16 NMSA 1978 (being Laws 1979, Chapter 290, Section 6, as amended) is amended to read:

"27-6-16. FUND CREATED.--[There is created in the state treasury] The "low income utility assistance fund" is created in the state treasury. Payments shall be made from the low
income utility assistance fund upon warrants drawn by the
secretary of finance and administration pursuant to vouchers
signed by the secretary of health care authority. Such payments shall be made for the costs and
administration of the Low Income Utility Assistance Act."

SECTION 119. Section 27-6-17 NMSA 1978 (being Laws
1991, Chapter 81, Section 1, as amended) is amended to read:

"27-6-17. UTILITY SERVICE--PROCEDURES TO FOLLOW PRIOR
TO SERVICE BEING DISCONTINUED.--

A. Unless requested by the customer, no gas or
electric utility shall discontinue service to any residential
customer for nonpayment during the period from November 15
through March 15 unless the following procedures are followed:

(1) at least fifteen days prior to the date
scheduled for utility service to be discontinued, unless the
[New Mexico] public [utility] regulation commission provides
for a shorter period, the utility shall mail or hand-deliver
to the customer a notice printed in both English and Spanish
and in simple language, which notice clearly explains that:

(a) utility service shall stop on a
specific date;

(b) the customer may be eligible for
financial assistance to pay for the utility service; and

(c) for assistance, the customer should
contact the utility or the [department] authority;
(2) any utility subject to this section shall attempt to advise customers who contact the utility seeking financial assistance of the program administered under the Low Income Utility Assistance Act and of assistance programs the utility may administer on its own or in conjunction with others;

(3) the utilities subject to this section and the [department] authority shall provide application forms for utility service payment assistance at billing and agency offices; and

(4) before the service is actually discontinued, the utility shall attempt to make contact in person or by telephone to remind the customer of the pending date of discontinuance of service and that financial assistance for utility payments may be available.

B. Unless requested by the customer, no gas or electric utility shall discontinue service to any residential customer for nonpayment during the period from November 15 through March 15 until at least fifteen days after the date scheduled for discontinuance of service if the [department] authority has certified to the utility that a customer is eligible for utility payment assistance under the Low Income Utility Assistance Act and that payment for the utility service provided to the customer will be made within the fifteen-day period.
C. The [department] authority and the [New Mexico] public [utility] regulation commission shall coordinate and adopt, as they deem appropriate, either separate or joint rules [and regulations] necessary to implement the provisions of this section; provided that nothing in this section authorizes the [department] authority to revise tariffs or rate filings subject to the jurisdiction of the [New Mexico] public [utility] regulation commission."

SECTION 120. Section 27-6-18.1 NMSA 1978 (being Laws 2007, Chapter 231, Section 1) is amended to read:

"27-6-18.1. PROHIBITION ON DISCONTINUANCE OR DISCONNECTION OF UTILITY SERVICE DURING THE WINTER HEATING SEASON--MINIMUM PAYMENTS--PAYMENT PLANS--EXCEPTIONS.--

A. Except as provided in Subsection C of this section, unless requested by the customer, no utility shall discontinue or disconnect service to a residential customer during the heating season for nonpayment of the customer's utility bill if the customer meets the qualifications to receive assistance pursuant to the low-income home energy assistance program from the administering authority during the program's current heating season.

B. The utility shall make payment plan options available to the customer pursuant to rules adopted by the public regulation commission.

C. If the customer does not pay the past due
charges from the customer's utility bill before the beginning of the next heating season, the customer shall not be eligible for protection from discontinued or disconnected utility service pursuant to this section during that next heating season until the past due charges are paid in full.

D. A customer who has defaulted on the customer's chosen payment plan and whose utility service has been discontinued or disconnected during the nonheating season can be reconnected and maintain the protection afforded by this section by paying reconnection charges, if any, and by paying the amount due pursuant to the payment plan by the date on which service is reconnected.

E. If a customer notifies the utility that the customer needs payment assistance and if the customer requests, the utility shall promptly report the customer's request for assistance to the administering authority. The administering authority shall take prompt action to evaluate the customer's eligibility for the low-income home energy assistance program.

F. Utilities subject to this section shall make the following information available to the public regarding:

   (1) the low-income home energy assistance program's:

       (a) application forms;

       (b) requirements for qualifying for the
program;
  (c) procedures for making an
application; and
  (d) location to which an application
may be submitted; and
  (2) the protection against discontinued and
disconnected service set forth in this section for customers
seeking assistance paying utility bills during a heating
season, including:
     (a) payment options; and
     (b) circumstances under which
disconnection or discontinuance of service may occur.
G. As used in this section:
  (1) "administering authority" means the
[human services department] health care authority or a tribal
entity that administers its own low-income home energy
assistance program;
  (2) "current season" means the period
beginning in September and continuing through August of the
subsequent year;
  (3) "heating season" means the period
beginning November 15 and continuing through March 15 of the
subsequent year;
  (4) "nonheating season" means the period
beginning on March 16 and continuing through November 14 of
the same year; and

(5) "tribal entity" means the governing body
or an agency of a federally recognized Indian nation, tribe or
pueblo located in whole or in part in New Mexico."

SECTION 121. Section 27-6A-1 NMSA 1978 (being Laws
1993, Chapter 206, Section 1) is amended to read:

"27-6A-1. SHORT TITLE.--[This act] Chapter 27, Article
6A NMSA 1978 may be cited as the "Low Income Water, Sewer and
Solid Waste Service Assistance Act"."

SECTION 122. Section 27-6A-3 NMSA 1978 (being Laws
1993, Chapter 206, Section 3) is amended to read:

"27-6A-3. DEFINITIONS.--As used in the Low Income
Water, Sewer and Solid Waste Service Assistance Act:

A. "authority" or "department" means the [human
services department] health care authority; and

B. "utility" means any individual, firm,
partnership, company, district, including [but not limited to]
solid waste district, water and sanitation district and
special district, cooperative, association, public or private
corporation, lessee, trustee or receiver appointed by any
court, municipality and municipal utility as defined in the
Municipal Code, incorporated county or county that may or does
own, operate, lease or control any plant, property or facility
for:

(1) the supply, storage, distribution or
furnishing of water to or for the public;

(2) the supply and furnishing of sanitary sewer service to or for the public; or

(3) the supply and furnishing of collection, transportation, treatment or disposal of solid waste to or for the public. "Utility" does not include a public utility subject to the jurisdiction of the [New Mexico Public Service] regulation commission."

SECTION 123. Section 27-6A-5 NMSA 1978 (being Laws 1993, Chapter 206, Section 5) is amended to read:

"27-6A-5. [DEPARTMENT] AUTHORITY COOPERATION.--Subject to state and federal statutes and [regulations] rules governing the sharing of confidential information, the [department] authority shall cooperate with a participating utility in identifying those persons eligible for assistance [pursuant to] in accordance with the Low Income Water, Sewer and Solid Waste Service Assistance Act."

SECTION 124. Section 27-8-1 NMSA 1978 (being Laws 1983, Chapter 139, Section 1) is amended to read:

"27-8-1. SHORT TITLE.--[This act] Chapter 27, Article 8 NMSA 1978 may be cited as the "Community Action Act"."

SECTION 125. Section 27-8-3 NMSA 1978 (being Laws 1983, Chapter 139, Section 3) is amended to read:

"27-8-3. DEFINITIONS.--As used in the Community Action Act:
A. "poverty level" means the official poverty level established by the federal director of the office of management and budget and revised periodically by the [federal] United States secretary of health and human services; and

B. "secretary" means the secretary of [human services] health care authority."

SECTION 126. Section 27-9-1 NMSA 1978 (being Laws 1983, Chapter 323, Section 1, as amended) is amended to read:

"27-9-1. PROGRAM--DEMONSTRATIONS.--The [human services department] health care authority, in cooperation with the [department of health] aging and long-term services department, is authorized to administer demonstration programs that provide in-home and coordinated community care services to the frail elderly and to persons with [a disability] disabilities who would otherwise require institutionalization. The programs authorized by this section shall serve both those eligible and not eligible for federal medical assistance programs."

SECTION 127. Section 27-9-2 NMSA 1978 (being Laws 1983, Chapter 323, Section 2) is amended to read:

"27-9-2. IMPLEMENTATION.--The secretary of [human services] health care authority shall, by [regulation] rule, specify the areas in which the programs shall operate, specify the services to be provided, establish eligibility criteria of
persons to be served and provide for cost sharing, where possible, with individuals and participating communities."

SECTION 128. Section 27-10-1 NMSA 1978 (being Laws 1991, Chapter 212, Section 1) is amended to read:

"27-10-1. SHORT TITLE.--[Sections 1 through 4 of this act] Chapter 27, Article 10 NMSA 1978 may be cited as the "Statewide Health Care Act"."

SECTION 129. Section 27-10-3 NMSA 1978 (being Laws 1991, Chapter 212, Section 3, as amended) is amended to read:

"27-10-3. COUNTY-SUPPORTED MEDICAID FUND CREATED--USE--APPROPRIATION BY THE LEGISLATURE.--

A. [There is created in the state treasury] The "county-supported medicaid fund" is created as a nonreverting fund in the state treasury. The fund shall be invested by the state treasurer as other state funds are invested. Income earned from investment of the fund shall be credited to the county-supported medicaid fund. [The fund shall not revert in any fiscal year.]

B. Money in the county-supported medicaid fund is subject to appropriation by the legislature to support the state medicaid program and to institute or support primary care health care services pursuant to Subsections D and E of Section [24-1A-3.1] 24A-4-4 NMSA 1978. Of the amount appropriated each year, nine percent shall be appropriated to
the [department of health] health care authority to institute
or support primary care health care services pursuant to
Subsections D and E of Section [24-1A-3.1] 24A-4-4 NMSA 1978.

C. Up to three percent of the county-supported
medicaid fund each year may be expended for administrative
costs related to medicaid or developing new primary care
health care centers or facilities.

D. In the event federal funds for medicaid are not
received by New Mexico for any eighteen-month period, the
unencumbered balance remaining in the county-supported
medicaid fund and the safety net care pool fund at the end of
the fiscal year following the end of any eighteen-month period
shall be paid within a reasonable time to each county for
deposit in the county health care assistance fund in
proportion to the payments made by each county through tax
revenues or transfers in the previous fiscal year as certified
by the local government division of the department of finance
and administration. The department will provide for budgeting
and accounting of payments to the fund."

SECTION 130. Section 27-11-2 NMSA 1978 (being Laws
1998, Chapter 30, Section 2, as amended) is amended to read:

"27-11-2. DEFINITIONS.--As used in the Medicaid
Provider and Managed Care Act:

A. "claim" means a request for payment for
services;
B. "clean claim" means a claim for reimbursement that:

(1) contains substantially all the required data elements necessary for accurate adjudication of the claim without the need for additional information from the medicaid provider or subcontractor;

(2) is not materially deficient or improper, including lacking substantiating documentation required by medicaid; and

(3) has no particular or unusual circumstances that require special treatment or that prevent payment from being made in due course on behalf of medicaid;

C. "credible" means having indicia of reliability after the state has reviewed all allegations, facts and evidence carefully and acted judiciously on a case-by-case basis;

D. "credible allegation of fraud" means an allegation that has been verified by the state from any source, including fraud hotline complaints, claims data mining and provider audits;

E. "department" or "authority" means the [human services department] health care authority;

F. "fraud" means any act that constitutes fraud under state or federal law;

G. "managed care organization" means a person
eligible to enter into risk-based prepaid capitation agreements with the [department] authority to provide health care and related services;

H. "medicaid" means the medical assistance program established pursuant to Title 19 of the federal Social Security Act and regulations issued pursuant to that act;

I. "medicaid provider" means a person that provides medicaid-related services to recipients;

J. "overpayment" means an amount paid to a medicaid provider or subcontractor in excess of the medicaid allowable amount, including payment for any claim to which a medicaid provider or subcontractor is not entitled;

K. "person" means an individual or other legal entity;

L. "recipient" means a person whom the [department] authority has determined to be eligible to receive medicaid-related services;

M. "secretary" means the secretary of [human services] health care authority; and

N. "subcontractor" means a person that contracts with a medicaid provider or a managed care organization to provide medicaid-related services to recipients."

SECTION 131. Section 27-14-1 NMSA 1978 (being Laws 2004, Chapter 49, Section 1) is amended to read:

"27-14-1. SHORT TITLE.--[This] Chapter 27, Article 14
NMSA 1978 may be cited as the "Medicaid False Claims Act"."

SECTION 132. Section 27-14-3 NMSA 1978 (being Laws 2004, Chapter 49, Section 3) is amended to read:

"27-14-3. DEFINITIONS.--As used in the Medicaid False Claims Act:

A. "claim" means a written or electronically submitted request for payment of health care services pursuant to the medicaid program;

B. "department" or "authority" means the [human services department] health care authority;

C. "medicaid" means the federal-state program administered by the [human services department] health care authority pursuant to Title 19 or Title 21 of the federal Social Security Act;

D. "medicaid recipient" means [an individual] a person on whose behalf a person claims or receives a payment from the medicaid program, regardless of whether the [individual] person was eligible for the medicaid program; and

E. "qui tam" means an action brought under a statute that allows a private person to sue for a recovery, part of which the state will receive."

SECTION 133. Section 28-16-15.2 NMSA 1978 (being Laws 1993, Chapter 84, Section 2, as amended) is amended to read:

"28-16-15.2. DEVELOPMENTAL DISABILITIES COUNCIL--ADDITIONAL DUTIES.--The developmental disabilities council

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shall cooperate with the [department of health and the human
services department] health care authority to:

A. provide data to support an amendment to the
developmental disabilities medicaid waiver program to increase
the number of eligible persons served;

B. develop a contingency plan to describe the role
and control the growth of intermediate care facilities for
[individuals] persons with developmental or intellectual
disabilities; and

C. develop flexibility in the system of
prioritization for admission to allow persons to move within
the service system to an appropriate level of service,
including movement of residents of intermediate care
facilities for [individuals] persons with developmental or
intellectual disabilities to the developmental disabilities
medicaid waiver program."

SECTION 134. Section 28-16A-2 NMSA 1978 (being Laws
1993, Chapter 50, Section 2, as amended) is amended to read:

"28-16A-2. LEGISLATIVE AUTHORIZATION.--The
Developmental Disabilities Act authorizes the [department]
authority to plan, provide and coordinate support and services
to persons with developmental disabilities."

SECTION 135. Section 28-16A-3 NMSA 1978 (being Laws
1993, Chapter 50, Section 3, as amended) is amended to read:

"28-16A-3. DEFINITIONS.--As used in the Developmental
Disabilities Act:

A. "assessment" means a process for measuring and determining a person's strengths, needs and preferences to determine eligibility for support and services and to develop or modify an individual support and service plan;

B. "case management" means a process that:
   (1) assists a person with a developmental disability to know and understand the person's choices and rights and to obtain support and services that the person is eligible to receive and that are reflected in the individual support and service plan; and
   (2) monitors the provision of support and services received by a person with a developmental disability;

C. "comprehensive review and analysis" means the comprehensive review and analysis conducted pursuant to Subsection A of Section 28-16A-7 NMSA 1978;

D. "council" means the developmental disabilities council;

E. "department" or "authority" means the [department of] health care authority;

F. "diagnostic evaluation" means an empirical process that determines if, and to what degree, a person has a developmental deficiency and the type of intervention and services that are needed for the person and that person's family;
[G-] F. "direct support professional" means a non-administrative employee or subcontractor of a direct support provider agency who spends the majority of the employee's or subcontractor's work hours providing supportive services to individuals with developmental disabilities living and working in the community;

[H-] G. "direct support provider agency" means an entity that:

(1) has entered into a medicaid provider participation agreement with the medical assistance division of the [human services department] authority and a provider agreement with the [department of health] developmental disabilities division of the authority;

(2) is reimbursed for services provided to persons through a developmental disabilities medicaid waiver program; and

(3) employs or subcontracts with direct support professionals to provide services to persons with developmental disabilities;

[I-] H. "inclusive" means using the same community resources that are used by and available to all citizens and developing relationships with nonpaid caregivers or recipients of support and services for persons with developmental disabilities;

[J-] I. "individual support and service plan"
means a plan developed by an interdisciplinary team and agreed to by a person with a developmental disability, or by a parent of a minor or a legal guardian, as appropriate, that describes the combination and sequence of special, interdisciplinary or generic care, treatment or other support and services that are needed and desired by a person with a developmental disability;

[K] J. "interdisciplinary team" means a group of persons drawn from or representing professions that are relevant to identifying the needs of a person with a developmental disability and designing a program to meet that person's needs. The team shall include the person with a developmental disability, the parent of a minor child or a legal guardian, as appropriate;

[L] K. "self-determination" means having:

   (1) the ability and opportunity to:
      (a) communicate and make personal decisions;
      (b) communicate choices and exercise control over the type and intensity of services, supports and other assistance that a person receives; and
      (c) participate in, and contribute to, an individual's community;

   (2) the authority to control resources to obtain needed services, supports and other assistance; and
support, including financial support, to advocate for oneself and others, develop leadership skills through training in self-advocacy, participate in coalitions, educate policymakers and play a role in the development of public policies that affect [individuals] persons with developmental disabilities; and

[ML] "service provider" means a nonprofit corporation, tribal government or tribal organization, unit of local government or other organization that has entered into a contract or provider agreement with the [department] developmental disabilities division of the authority for the purpose of providing developmental disabilities support and services."

SECTION 136. Section 28-16A-4 NMSA 1978 (being Laws 1993, Chapter 50, Section 4, as amended) is amended to read:

"28-16A-4. DEVELOPMENTAL DISABILITIES COUNCIL--CREATION--MEMBERSHIP--TERMS.--

A. The "developmental disabilities council" is created in accordance with the federal Developmental Disabilities Assistance and Bill of Rights Act. The council shall be an adjunct agency as provided in the Executive Reorganization Act.

B. The council shall consist of no fewer than twenty-six members, at least sixty percent of whom shall be:

(1) persons with developmental disabilities;
(2) parents or legal guardians of children
with developmental disabilities; or

(3) immediate relatives or guardians of
adults with mentally impairing developmental disabilities who
cannot advocate for themselves.

C. Of the sixty percent of members described in
Subsection B of this section, one-third shall be persons with
developmental disabilities, one-third shall be members
described in Paragraphs (2) and (3) of Subsection B of this
section and one-third shall be a combination of members
described in Subsection B of this section. At least one
member described in Subsection B of this section shall be an
immediate relative or guardian of a person who resides or
previously resided in an institution or shall be a person with
a developmental disability who resides or previously resided
in an institution. No member of the council shall be an
employee, or someone who manages employees, of a state agency
that receives funds to provide developmental disabilities
supports and services.

D. The council shall also include:

(1) the secretary of health, or the
secretary's designee;

(2) the secretary of [human services]
health care authority, or the secretary's designee;

(3) the secretary of children, youth
and families, or the secretary's designee;

[(++)] (3) the secretary of early childhood education and care, or the secretary's designee;

[(++)] (4) the secretary of aging and long-term services, or the secretary's designee;

[(++)] (5) the secretary of public education, or the secretary's designee;

[(++)] (6) the director of the vocational rehabilitation division of the public education department, or the director's designee;

[(++)] (7) the director of the state protection and advocacy system established pursuant to the federal Developmental Disabilities Assistance and Bill of Rights Act of 1990, or the director's designee;

[(++)] (8) the director of an entity within a state institution of higher education designated as a university center for excellence in developmental disabilities education, research and service; and

[(++)] (9) at all times, representatives of local and nongovernmental agencies and private nonprofit groups concerned with services for persons with developmental disabilities in New Mexico.

E. The governor shall select the members of the council for appointment pursuant to Subsection B and Paragraphs (8) and (9) [and (10)] of Subsection D of this
section after soliciting recommendations from organizations representing a broad range of persons with developmental disabilities and other persons interested in persons with developmental disabilities. The council may, at the initiative of the council or at the request of the governor, coordinate council and public input to the governor regarding all recommendations.

F. The membership of the council shall be geographically representative of the state and reflect the diversity of the state with respect to race and ethnicity.

G. Members, except for ex-officio members, shall be appointed by the governor for terms of three years.

H. The governor shall provide for rotation of the membership of the council. These provisions shall allow members to continue to serve on the council until those members' successors are appointed and qualified.

I. The council shall notify the governor regarding membership requirements of the council and shall notify the governor when vacancies on the council remain unfilled for a significant period of time.

J. Council members shall recuse themselves from any discussion of grants or contracts for which such members' departments, agencies or programs are grantees, contractors or applicants. The council shall ensure that no council member casts a vote on any matter that would provide direct financial benefit to such members or their departments, agencies or programs.
benefit to the member or otherwise give the appearance of a
conflict of interest."

SECTION 137. A new section of the Abuse and Neglect Act
is enacted to read:

"[NEW MATERIAL] CHILD CARE FACILITIES--IMMINENT
DANGER. -- When there are reasonable grounds to believe that a
child is in imminent danger of abuse or neglect while in the
care of a child care facility, whether or not licensed, or
upon the receipt of a report pursuant to Section 32A-4-3 NMSA
1978, the department shall consult with the owner or operator
of the child care facility and the early childhood education
and care department. Upon a finding of probable cause, the
early childhood education and care department shall give the
owner or operator notice of its intent to suspend operation of
the child care facility and provide an opportunity for a
hearing to be held within three working days, unless waived by
the owner or operator. Within seven working days from the day
of notice, the secretary of early childhood education and care
shall make a decision, and, if it is determined that any child
is in imminent danger of abuse or neglect in the child care
facility, the secretary may suspend operation of the child
care facility for a period not in excess of fifteen days.
Prior to the date of the hearing, the early childhood
education and care department shall make a reasonable effort
to notify the parents of children in the child care facility
of the notice and opportunity for hearing given to the owner or operator."

SECTION 138. Section 43-1-3 NMSA 1978 (being Laws 1977, Chapter 279, Section 2, as amended by Laws 2023, Chapter 113, Section 12 and by Laws 2023, Chapter 117, Section 2) is amended to read:

"43-1-3. DEFINITIONS.--As used in the Mental Health and Developmental Disabilities Code:

A. "aversive stimuli" means anything that, because it is believed to be unreasonably unpleasant, uncomfortable or distasteful to the client, is administered or done to the client for the purpose of reducing the frequency of a behavior, but does not include verbal therapies, physical restrictions to prevent imminent harm to self or others or psychotropic medications that are not used for purposes of punishment;

B. "client" means a patient who is requesting or receiving mental health services or any person requesting or receiving developmental disabilities services or who is present in a mental health or developmental disabilities facility for the purpose of receiving such services or who has been placed in a mental health or developmental disabilities facility by the person's parent or guardian or by any court order;

C. "code" means the Mental Health and
D. "consistent with the least drastic means principle" means that the habilitation or treatment and the conditions of habilitation or treatment for the client, separately and in combination:

(1) are no more harsh, hazardous or intrusive than necessary to achieve acceptable treatment objectives for the client;

(2) involve no restrictions on physical movement and no requirement for residential care except as reasonably necessary for the administration of treatment or for the protection of the client or others from physical injury; and

(3) are conducted at the suitable available facility close to the client's place of residence;

E. "convulsive treatment" means any form of mental health treatment that depends upon creation of a convulsion by any means, including electroconvulsive treatment and insulin coma treatment;

F. "court" means a district court of New Mexico;

G. "crisis triage center" means a health facility that:

(1) is licensed by the [department of health care authority]; and

(2) provides stabilization of behavioral
health crises and may include residential and nonresidential stabilization;

H. "department" or "division" means the behavioral health services division of the [human services department] health care authority;

I. "developmental or intellectual disability" means a severe chronic disability attributable to significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior, cerebral palsy, autism or neurological dysfunction that requires similar treatment or habilitation;

J. "evaluation facility" means a community mental health or developmental disability program, a crisis triage center or a medical facility that has psychiatric or developmental or intellectual disability services available, including the New Mexico behavioral health institute at Las Vegas, [the Los Lunas medical center] or, if none of [the foregoing] those is reasonably available or appropriate, the office of a physician or a certified psychologist [and] that is capable of performing a mental status examination adequate to determine the need for involuntary treatment;

K. "experimental treatment" means any mental health or developmental disabilities treatment that presents significant risk of physical harm, but does not include accepted treatment used in competent practice of medicine and
psychology and supported by scientifically acceptable studies;

L. "grave passive neglect" means failure to provide for basic personal or medical needs or for one's own safety to such an extent that it is more likely than not that serious bodily harm will result in the near future;

M. "habilitation" means the process by which professional persons and their staff assist a client with a developmental or an intellectual disability in acquiring and maintaining those skills and behaviors that enable the person to cope more effectively with the demands of the person's self and environment and to raise the level of the person's physical, mental and social efficiency. "Habilitation" includes but is not limited to programs of formal, structured education and treatment;

N. "likelihood of serious harm to oneself" means that it is more likely than not that in the near future the person will attempt to commit suicide or will cause serious bodily harm to the person's self by violent or other self-destructive means, including grave passive neglect;

O. "likelihood of serious harm to others" means that it is more likely than not that in the near future a person will inflict serious, unjustified bodily harm on another person or commit a criminal sexual offense, as evidenced by behavior causing, attempting or threatening such harm, which behavior gives rise to a reasonable fear of such
harm from the person;

P. "mental disorder" means substantial disorder of a person's emotional processes, thought or cognition that grossly impairs judgment, behavior or capacity to recognize reality, but does not mean developmental or intellectual disability;

Q. "mental health or developmental or intellectual disabilities professional" means a physician or other professional who by training or experience is qualified to work with persons with a mental disorder or a developmental or intellectual disability;

R. "physician" or "certified psychologist", when used for the purpose of hospital admittance or discharge, means a physician or certified psychologist who has been granted admitting privileges at a hospital licensed by the [department of] health care authority, if such privileges are required;

S. "protected health information" means individually identifiable health information transmitted by or maintained in an electronic form or any other form or media that relates to the:

(1) past, present or future physical or mental health or condition of [an individual] a person;

(2) provision of health care to [an individual] a person; or
(3) payment for the provision of health care
to [an individual] a person;

T. "psychosurgery":

(1) means those operations currently
referred to as lobotomy, psychiatric surgery and behavioral
surgery and all other forms of brain surgery if the surgery is
performed for the purpose of the following:

(a) modification or control of
thoughts, feelings, actions or behavior rather than the
treatment of a known and diagnosed physical disease of the
brain;

(b) treatment of abnormal brain
function or normal brain tissue in order to control thoughts,
feelings, actions or behavior; or

(c) treatment of abnormal brain
function or abnormal brain tissue in order to modify thoughts,
feelings, actions or behavior when the abnormality is not an
established cause for those thoughts, feelings, actions or
behavior; and

(2) does not include prefrontal sonic
treatment in which there is no destruction of brain tissue;

U. "qualified mental health professional licensed
for independent practice" means an independent social worker,
a licensed professional clinical mental health counselor, a
marriage and family therapist, a certified nurse practitioner,
a clinical nurse specialist with a specialty in mental health
or a licensed art therapist, all of whom by training and
experience are qualified to work with persons with a mental
disorder;

V. "residential treatment or habilitation program"
means diagnosis, evaluation, care, treatment or habilitation
rendered inside or on the premises of a mental health or
developmental disabilities facility, hospital, clinic,
institution or supervisory residence or nursing home when the
client resides on the premises; and

W. "treatment" means any effort to accomplish a
significant change in the mental or emotional condition or
behavior of the client."

SECTION 139. Section 59A-23F-3 NMSA 1978 (being Laws
2013, Chapter 54, Section 3, as amended) is amended to read:

"59A-23F-3. NEW MEXICO HEALTH INSURANCE EXCHANGE
CREATED--BOARD CREATED.--

A. The "New Mexico health insurance exchange" is
created as a nonprofit public corporation to provide qualified
individuals and qualified employers with increased access to
health insurance in the state and shall be governed by a board
of directors constituted pursuant to the provisions of the New
Mexico Health Insurance Exchange Act. The exchange is a
governmental entity for purposes of the Governmental Conduct
Act, the Gift Act, the Sunshine Portal Transparency Act, the
Whistleblower Protection Act, the Procurement Code and the
Tort Claims Act, and neither the exchange nor the board shall
be considered a governmental entity for any other purpose.

B. The exchange shall not duplicate, impair,
enhance, supplant, infringe upon or replace, in whole or in
any part, the powers, duties or authority of the
superintendent, including the superintendent's authority to
review and approve premium rates pursuant to the provisions of
the Insurance Code.

C. All health insurance issuers and health
maintenance organizations authorized to conduct business in
this state and meeting the requirements of the rules
promulgated by the superintendent pursuant to Section
59A-23F-7 NMSA 1978, the regulations under federal law and the
requirements established by the board shall be eligible to
participate in the exchange.

D. The "board of directors of the New Mexico
health insurance exchange" is created. The board consists of
thirteen voting directors as follows:

(1) one voting director is the
superintendent or the superintendent's designee;

(2) six voting directors appointed by the
governor, including the secretary of [human services] health
care authority or the secretary's designee, a health insurance
issuer and a consumer advocate; and
(3) six voting directors, three appointed by the president pro tempore of the senate, including one health care provider, and three appointed by the speaker of the house of representatives, including one health insurance issuer. One of the directors appointed by the president pro tempore of the senate and one of the directors appointed by the speaker of the house of representatives shall be from a list of at least two candidates provided, respectively, by the minority floor leader of the senate and by the minority floor leader of the house of representatives.

E. Except as provided in Subsection F of this section, managerial and full-time staff of the exchange shall be subject to applicable provisions of the Governmental Conduct Act and shall not have any direct or indirect affiliation with any health care provider, health insurance issuer or health care service provider.

F. Each director shall comply with the conflict-of-interest provisions of Subsection E of this section, except as follows:

(1) directors who may be appointed from the board of directors of the New Mexico medical insurance pool shall not be considered to have a conflict of interest with respect to their association with that entity;

(2) the secretary of [human services] health care authority, or the secretary's designee, shall not be
considered to have a conflict of interest with respect to the
secretary's performance of the secretary's duties as secretary
of [human services] health care authority;

(3) the director who is a health care
provider shall not be considered to have a conflict of
interest arising from that director's receipt of payment for
services as a health care provider; and

(4) directors who are representatives of
health insurance issuers shall not be considered to have a
conflict of interest with respect to those directors'
association with their respective health insurance issuers.

G. Each director and employee of the exchange
shall have a fiduciary duty to the exchange, to the state and
to those persons who purchase or enroll in qualified health
plan coverage or medical assistance coverage through the
exchange.

H. The board shall be composed, as a whole, to
assure representation of the state's Native American
population, ethnic diversity, cultural diversity and
geographic diversity.

I. Directors shall have demonstrated knowledge or
experience in at least one of the following areas:

(1) purchasing coverage in the individual
market;

(2) purchasing coverage in the small
employer market;

(3) health care finance;

(4) health care economics or health care actuarial science;

(5) health care policy;

(6) the enrollment of underserved residents in health care coverage;

(7) administration of a private or public health care delivery system;

(8) information technology;

(9) starting a small business with fifty or fewer employees; or

(10) provision of health care services.

J. The governor shall appoint no more than four directors from the same political party.

K. Except for the secretary of [human services] health care authority, the non-health insurance issuer directors appointed by the governor shall be appointed for initial terms of three years or less, staggered so that the term of at least one director expires on June 30 of each year. The non-health insurance insurer directors appointed by the legislature shall be appointed for initial terms of three years or less, staggered so that the term of at least one director expires on June 30 of each year. The health insurance issuers appointed to the board shall, upon
appointment, select one of them by lot to have an initial term ending on June 30 following one year of service and one to have an initial term ending on June 30 following two years of service. Following the initial terms, health insurance issuer directors shall be appointed for terms of two years. A director whose term has expired shall continue to serve until a successor is appointed by the respective appointing authority. Health insurance issuer directors shall not serve two consecutive terms.

L. The exchange, members of the board and employees of the exchange shall operate consistent with provisions of the Governmental Conduct Act, the Inspection of Public Records Act, the Financial Disclosure Act, the Gift Act, the Whistleblower Protection Act, the Open Meetings Act and the Procurement Code and shall not be subject to the Personnel Act.

M. The board and the exchange shall implement performance-based budgeting and submit annual budgets for the exchange to the secretary of finance and administration and the legislative finance committee.

N. The exchange shall cover its directors and employees under a surety bond, in an amount that the director of the risk management division of the general services department shall prescribe.

O. A majority of directors constitutes a quorum.
The board may allow members to attend meetings by telephone or other electronic media. A decision by the board requires a quorum and a majority of directors in attendance voting in favor of the decision.

P. Within thirty days of the effective date of the New Mexico Health Insurance Exchange Act, the board shall be fully appointed and the superintendent shall convene an organizational meeting of the board, during which the board shall elect a chair and vice chair from among the directors. Thereafter, every three years, the board shall elect in open meeting a chair and vice chair from among the directors. The chair and vice chair shall serve no more than two consecutive three-year terms as chair and vice chair.

Q. A vacancy on the board shall be filled by appointment by the original appointing authority for the remainder of the director's unexpired term.

R. A director may be removed from the board by a two-thirds majority vote of the directors. The board shall set standards for attendance and may remove a director for lack of attendance, neglect of duty or malfeasance in office. A director shall not be removed without proceedings consisting of at least one ten-day notice of hearing and an opportunity to be heard. Removal proceedings shall be before the board and in accordance with procedures adopted by the board.
S. Appointed directors may receive per diem and mileage in accordance with the Per Diem and Mileage Act, subject to the travel policy set by the board. Appointed directors shall receive no other compensation, perquisite or allowance.

T. The board shall:

(1) meet at the call of the chair and no less often than once per calendar quarter. There shall be at least seven days' notice given to directors prior to any meeting. There shall be sufficient notice provided to the public prior to meetings pursuant to the Open Meetings Act;

(2) create, make appointments to and duly consider recommendations of an advisory committee or committees made up of stakeholders, including health insurance issuers, health care consumers, health care providers, health care practitioners, insurance producers, qualified employer representatives and advocates for low-income or underserved residents;

(3) create an advisory committee made up of members insured through the New Mexico medical insurance pool to make recommendations to the board regarding the transition of each organization's insured members into the exchange. The advisory committee shall only exist until a transition plan has been adopted by the board;

(4) create an advisory committee made up of
Native Americans, some of whom live on a reservation and some
of whom do not live on a reservation, to guide the
implementation of the Native American-specific provisions of
the federal Patient Protection and Affordable Care Act and the
federal Indian Health Care Improvement Act;

(5) designate a Native American liaison, who
shall assist the board in developing and ensuring
implementation of communication and collaboration between the
exchange and Native Americans in the state. The Native
American liaison shall serve as a contact person between the
exchange and New Mexico Indian nations, tribes and pueblos and
shall ensure that training is provided to the staff of the
exchange, which may include training in:

(a) cultural competency;

(b) state and federal law relating to
Indian health; and

(c) other matters relating to the
functions of the exchange with respect to Native Americans in
the state; and

(6) establish at least one walk-in customer
service center where persons may, if eligible, enroll in
qualified health plans or public coverage programs."

SECTION 140. Section 59A-23F-11 NMSA 1978 (being Laws
2021, Chapter 136, Section 4) is amended to read:

"59A-23F-11. HEALTH CARE AFFORDABILITY FUND.--
A. The "health care affordability fund" is created in the state treasury. The fund consists of distributions, appropriations, gifts, grants and donations. Money in the fund at the end of a fiscal year shall not revert to any other fund. The [office of superintendent of insurance] health care authority shall administer the fund, and money in the fund is subject to appropriation by the legislature for purposes provided by this section. Disbursements from the fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the [superintendent or the superintendent's] secretary of health care authority or the secretary's authorized representative.

B. The purpose of the fund is to:

(1) reduce health care premiums and cost sharing for New Mexico residents who purchase health care coverage on the New Mexico health insurance exchange;

(2) reduce premiums for small businesses and their employees purchasing health care coverage in the fully insured small group market;

(3) provide resources for planning, design and implementation of health care coverage initiatives for uninsured New Mexico residents; and

(4) provide resources for administration of state health care coverage initiatives for uninsured New Mexico residents.
C. If the federal Patient Protection and Affordable Care Act is repealed in full or in part by an act of congress or invalidated by the United States supreme court and eliminates or reduces comprehensive health care coverage for New Mexico residents through medicaid or the New Mexico health insurance exchange, the fund may be used to maintain coverage through the New Mexico health insurance exchange or through medical assistance programs administered by the [human services department] health care authority; provided that coverage is prioritized for New Mexico residents with incomes below two hundred percent of the federal poverty level.

D. Prior to July 1, 2025, the staff of the legislative finance committee shall conduct a program evaluation to measure the impact of changes to the health insurance premium surtax and the creation of the health care affordability fund as it relates to the purpose of the fund.

E. Prior to July 1 of each year, the [superintendent] health care authority shall provide actuarial data from the health care affordability fund to the legislative finance committee.

F. Prior to July 1 of each year, [the superintendent, in consultation with] the secretary of [human services] health care authority, in consultation with the superintendent, the secretary of taxation and revenue and the chief executive officer of the New Mexico health insurance
exchange, shall work with the legislative finance committee and the department of finance and administration to develop and report on performance measures relating to the health care affordability fund and any programs or initiatives funded by the fund."

SECTION 141. Section 59A-23F-12 NMSA 1978 (being Laws 2021, Chapter 136, Section 5) is amended to read:

"59A-23F-12. HEALTH CARE AFFORDABILITY PLAN--RULEMAKING--REPORTING REQUIREMENTS.--

[A. The superintendent, in consultation with the secretary of human services, the secretary of taxation and revenue and the chief executive officer of the New Mexico health insurance exchange, shall promulgate rules to:

A. After the effective date of this 2024 act, rules covering the following provisions may be amended as the health care authority determines:

(1) [provide] providing enhanced premium and cost-sharing assistance to individuals and families for the purchase of qualified health plans on the New Mexico health insurance exchange. In providing this assistance, the [superintendent] health care authority shall develop health care affordability criteria designed to reduce the amount that individuals pay in premiums and out-of-pocket medical expenses for qualified health plans offered on the New Mexico health insurance exchange; and

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(2) establishing income eligibility parameters for the health care affordability criteria for plan year 2023 and each subsequent calendar year based on available funds. New Mexico residents who qualify shall have an income that is eligible for advanced premium tax credits under the federal Patient Protection and Affordable Care Act.

B. [The superintendent, in consultation with the human services department] After the effective date of this 2024 act, the health care authority, in consultation with the superintendent, the New Mexico medical insurance pool, the department of health and stakeholder groups, including health care providers that serve uninsured residents, health insurance carriers and consumer advocacy groups, [shall develop a] may update the plan for extending health care coverage access to uninsured New Mexico residents who do not qualify for federal premium assistance or, except by reason of incarceration, qualified health plans, through the New Mexico health insurance exchange. [No later than June 30, 2022, the superintendent shall submit the plan to the legislative finance committee and the legislative health and human services committee that could offer health care coverage for eligible New Mexico residents beginning July 1, 2023.] The plan shall include:

(1) details about health care benefits;
(2) health care affordability criteria
designed to reduce the amount that individuals pay in premiums
and out-of-pocket medical expenses under the plan and that
result in, to the greatest extent possible, health care costs
comparable to costs for New Mexico residents for whom
assistance is provided under Subsection A of this section; and

(3) income eligibility parameters that
prioritize eligibility for New Mexico residents with incomes
under two hundred percent of the federal poverty level.

C. On or before October 31, [2023] 2024 and each
October 31 thereafter, the [superintendent] health care
authority shall submit a report to the legislative finance
committee and the legislative health and human services
committee, which [shall include] includes:

(1) a summary of the affordability criteria
implemented pursuant to Subsections A and B of this section;

(2) the estimated number of uninsured New
Mexico residents who enrolled in coverage following
implementation of the affordability criteria pursuant to
Subsections A and B of this section; and

(3) the amount in reduced costs and coverage
assistance the initiatives provided in the current and
previous calendar years by income level, county and coverage
source."

SECTION 142. Section 59A-23H-1 NMSA 1978 (being Laws
2022, Chapter 33, Section 1) is amended to read:

"59A-23H-1. SHORT TITLE.--[Sections 1 through 6 of this act] Chapter 59A, Article 23H NMSA 1978 may be cited as the "Easy Enrollment Act".

SECTION 143. Section 59A-23H-2 NMSA 1978 (being Laws 2022, Chapter 33, Section 2) is amended to read:

"59A-23H-2. DEFINITIONS.--As used in the Easy Enrollment Act:

A. "authority" or "department" means the [human services department] health care authority;

B. "exchange" means the New Mexico health insurance exchange;

C. "health coverage program" means medicaid, health care coverage available through the federal children's health insurance program, a qualified health plan available through the exchange pursuant to the New Mexico Health Insurance Exchange Act or a health plan available through the New Mexico medical insurance pool pursuant to the Medical Insurance Pool Act;

D. "insurance-relevant information" means information pertaining to the insurance enrollment status of a taxpayer or members of a taxpayer's household and that is derived or obtained from the taxpayer's state income tax return; provided that information is limited to that information necessary to assess the eligibility of the
taxpayer or members of the taxpayer's household for health
coverage programs and includes:

(1) adjusted gross income and other types of
reported income used to assess eligibility for health coverage
programs;

(2) household size;

(3) claimed dependents; and

(4) contact information and identifying
information necessary to assess health coverage program
eligibility and used to match against relevant third-party
data sources;

E. "medicaid" means the joint federal-state health
coverage program pursuant to Title 19 or Title 21 of the
federal Social Security Act, as amended, and the rules
promulgated pursuant to that act;

F. "qualified health plan" means a health plan
that has in effect a certification from the superintendent of
insurance that meets the standards set forth in applicable
federal and state law and rules as well as any additional
requirements established by the board of directors of the
exchange pursuant to the New Mexico Health Insurance Exchange
Act; and

G. "taxpayer" means an individual subject to the
tax imposed pursuant to the Income Tax Act."

SECTION 144. Section 59A-23H-5 NMSA 1978 (being Laws
2022, Chapter 33, Section 5) is amended to read:

"59A-23H-5. [HUMAN SERVICES DEPARTMENT] HEALTH CARE

AUTHORITY DUTIES.--

A. Upon receipt of a taxpayer's insurance-relevant
information from the taxation and revenue department, the
department authority shall assess the taxpayer's eligibility
or the eligibility of members of the taxpayer's household for
health coverage programs. If the required insurance-relevant
information is insufficient to assess the eligibility of the
taxpayer or of the members of the taxpayer's household for
those health coverage programs, the department authority may
request additional information from the taxpayer.

B. If the department authority assesses that a
taxpayer or a member of the taxpayer's household is eligible
for medicaid, the department authority shall contact the
taxpayer and provide the taxpayer with information on:

(1) health coverage programs available to
the taxpayer or member of the taxpayer's household; and

(2) specific enrollment instructions and
information on enrollment assistance.

C. If the information transferred to the
department authority is sufficient to complete an
eligibility determination and the taxpayer has consented to
being enrolled in medicaid, the department authority may
enroll the taxpayer in medicaid.

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D. The [department] authority shall refer taxpayers or members of the taxpayer's household to the exchange if the [department] authority assesses that a taxpayer or a member of the taxpayer's household may be eligible for a qualified health plan available through the exchange pursuant to the New Mexico Health Insurance Exchange Act. The [department] authority may share insurance-relevant information provided by the taxation and revenue department with the exchange for the purpose of assisting a taxpayer with enrollment in a qualified health plan."

SECTION 145. TEMPORARY PROVISION--TRANSFERS OF FUNCTIONS, EMPLOYEES, MONEY, APPROPRIATIONS, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES.--

A. On July 1, 2024:

(1) functions, employees, money, appropriations, records, equipment and other property of the department of health pertaining to the developmental disabilities supports division, health improvement division and health facility licensing and certification bureau are transferred from the department of health to the health care authority;

(2) all contractual obligations pertaining to the developmental disabilities supports division, health improvement division and health facility licensing and certification bureau shall be deemed to be contractual
obligations of the health care authority; and

(3) statutory references to the
developmental disabilities supports division, health
improvement division and health facility licensing and
certification bureau or other functions transferred from the
department of health to the health care authority shall be
deemed to be references to the health care authority.

B. On July 1, 2024, functions, employees, money,
appropriations, records, equipment and other property of the
office of the superintendent of insurance pertaining to the
administration of the health care affordability fund are
transferred to the health care authority. Contractual
obligations of the office of the superintendent of insurance
pertaining to the health care affordability fund shall be
deemed to be contractual obligations of the health care
authority.

SECTION 146. TEMORARY PROVISION--RECOMPILATION.--

A. Sections 24-1-23, 24-1-39 and 24-1-42 NMSA 1978
(being Laws 1987, Chapter 157, Section 1, Laws 2019, Chapter
4, Section 1 and Laws 2021, Chapter 127, Section 1) are

B. Section 24-1A-2 NMSA 1978 (being Laws 1981,
Chapter 295, Section 2, as amended) is recompiled as Section
24A-4-2 NMSA 1978.

C. Section 24-1C-2 NMSA 1978 (being Laws 1994,
Chapter 62, Section 8) is recompiled as Section 24A-5-2 NMSA 1978.

D. Sections 24-1E-4 through 24-1E-7 NMSA 1978 (being Laws 1996, Chapter 35, Section 7 through 9 and Laws 2001, Chapter 225, Section 5, as amended) are recompiled as Sections 24A-2-5 through 24A-2-8 NMSA 1978.

E. Sections 24-1I-1 through 24-1I-5 NMSA 1978 (being Laws 2015, Chapter 96, Sections 1 through 5, as amended) are recompiled in Chapter 24A, Article 7 NMSA 1978.

F. Section 24-17A-2 NMSA 1978 (being Laws 1998, Chapter 82, Section 2) is recompiled as Section 24A-6-2 NMSA 1978.

SECTION 147. REPEAL.--

A. Section 9-8-7.4 NMSA 1978 (being Laws 2019, Chapter 211, Section 2, as amended) is repealed.

B. Sections 24-1G-1 and 24-1G-2 NMSA 1978 (being Laws 2005, Chapter 55, Sections 1 and 2, as amended) are repealed.

C. Sections 24-1K-1 and 24-1K-2 NMSA 1978 (being Laws 2021, Chapter 87, Sections 1 and 2) are repealed.

SECTION 148. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2024.