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AN ACT

RELATING TO INSURANCE; ENACTING THE HEALTH CARE CONSOLIDATION  
OVERSIGHT ACT; REQUIRING REVIEW OF PROPOSED HOSPITAL  
ACQUISITIONS AND OTHER CHANGES IN CONTROL OF HOSPITALS;  
GRANTING THE OFFICE OF SUPERINTENDENT OF INSURANCE AND THE  
HEALTH CARE AUTHORITY DEPARTMENT THE AUTHORITY TO REVIEW  
PROPOSED TRANSACTIONS; AUTHORIZING THE APPROVAL, DISAPPROVAL  
OR CONDITIONAL APPROVAL OF TRANSACTIONS; PROVIDING  
CONFIDENTIALITY; ASSESSING COSTS; REPEALING AND ENACTING  
SECTIONS OF THE NMSA 1978.

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

SECTION 1. A new section of the New Mexico Insurance  
Code is enacted to read:

"SHORT TITLE.--This act may be cited as the "Health Care  
Consolidation Oversight Act"."

SECTION 2. A new section of the New Mexico Insurance  
Code is enacted to read:

"DEFINITIONS.--As used in the Health Care Consolidation  
Oversight Act:

A. "acquisition" means an agreement or activity  
the consummation of which results in a person acquiring,  
directly or indirectly, the control of a hospital in  
New Mexico and includes the acquisition of voting securities,  
membership interests, equity interests or assets;

1           B. "affiliation" means a business arrangement in  
2 which one person directly or indirectly is controlled by, is  
3 under common control with or controls another person;

4           C. "authority" means the health care authority  
5 department;

6           D. "control" means the power to direct or cause  
7 the direction of the management and policies of a hospital,  
8 whether directly or indirectly, including through the  
9 ownership of voting securities, through licensing or  
10 franchise agreements or by contract other than a commercial  
11 contract for goods or nonmanagement services, unless the  
12 power is the result of an official position with or corporate  
13 office held by an individual;

14           E. "essential services" means health care services  
15 covered by the state medicaid program, health care services  
16 that are required to be included in health plans pursuant to  
17 state or federal law and health care services that are  
18 required to be included in qualified health plans offered  
19 through the New Mexico health insurance exchange;

20           F. "health care provider" means a person qualified  
21 or licensed under state law to perform or provide health care  
22 services;

23           G. "health insurer" means a person required to be  
24 licensed or subject to the Insurance Code in connection with  
25 the business of health insurance or health care;

1           H. "hospital" means a hospital licensed by the  
2 department of health or its successor health facility  
3 licensing agency, but "hospital" does not include a state  
4 university teaching hospital or a state-owned special  
5 hospital;

6           I. "management services organization" means a  
7 person that provides all or substantially all of the  
8 administrative or management services under contract with a  
9 hospital, including administering contracts with health  
10 plans, third-party administrators and pharmacy benefit  
11 managers, on behalf of the hospital;

12           J. "office" means the office of superintendent of  
13 insurance;

14           K. "party" means a person taking part in a  
15 transaction subject to the Health Care Consolidation  
16 Oversight Act;

17           L. "person" means an individual, association,  
18 organization, partnership, firm, syndicate, trust,  
19 corporation or other legal entity;

20           M. "superintendent" means the superintendent of  
21 insurance; and

22           N. "transaction" means any of the following:

23                 (1) a merger of a hospital in New Mexico  
24 with another hospital;

25                 (2) an acquisition of one or more hospitals

1 in New Mexico;

2 (3) any affiliation or contract or other  
3 agreement that results in a change of control of a hospital  
4 in New Mexico, including with a management services  
5 organization or health insurer;

6 (4) a formation of a new corporation,  
7 partnership, joint venture, trust, parent organization or  
8 management services organization that results in a change of  
9 control of an existing hospital in New Mexico; and

10 (5) a sale, purchase, lease, new affiliation  
11 or any agreement that results in control of a hospital in  
12 New Mexico."

13 SECTION 3. A new section of the New Mexico Insurance  
14 Code is enacted to read:

15 "APPLICABILITY--PROVISIONS ADDITIONAL--CONTROL  
16 PRESUMPTIONS.--

17 A. The oversight power of the office pursuant to  
18 the Health Care Consolidation Oversight Act applies to  
19 proposed transactions that involve a New Mexico hospital.

20 B. Being subject to the Health Care Consolidation  
21 Oversight Act does not preclude or negate any person  
22 regulated pursuant to the Insurance Holding Company Law.

23 C. Control is presumed to exist if a person,  
24 directly or indirectly, owns, controls, holds fifteen percent  
25 or more of the power to vote or holds proxies representing

1 fifteen percent or more of the voting securities of any other  
2 person. The presumption may be rebutted by a showing in the  
3 manner provided by Section 59A-37-19 NMSA 1978 that control  
4 does not in fact exist."

5 SECTION 4. A new section of the New Mexico Insurance  
6 Code is enacted to read:

7 "CONFIDENTIALITY.--All documents, materials or other  
8 information in the possession or control of the office that  
9 are obtained by or disclosed to the office or the authority  
10 in the course of a review under the Health Care Consolidation  
11 Oversight Act are confidential."

12 SECTION 5. A new section of the New Mexico Insurance  
13 Code is enacted to read:

14 "TIMING OF REVIEW OF NOTICE AND TOLLING.--

15 A. A notice of a proposed transaction shall be  
16 deemed complete by the office on the date when all the  
17 information required by the Health Care Consolidation  
18 Oversight Act or requested by the office is submitted by all  
19 the parties to the transaction, as applicable.

20 B. Should the scope of the proposed transaction be  
21 significantly modified from that outlined in the initial  
22 notice, the time periods set out in the Health Care  
23 Consolidation Oversight Act shall be restarted by the office.

24 C. The time periods shall be tolled during any  
25 time in which the office has requested and is awaiting

1 further information from the parties to a transaction  
2 necessary to complete its review."

3 SECTION 6. A new section of the New Mexico Insurance  
4 Code is enacted to read:

5 "NOTICE OF PROPOSED TRANSACTION--GENERAL PROVISIONS--  
6 REQUIREMENTS--CONSULTATIONS--EXPERTS--PAYMENT OF COSTS.--

7 A. At least one person that is a party to a  
8 proposed transaction shall submit to the office a written  
9 notice of the proposed transaction in the form and manner  
10 prescribed by the office. The parties shall pay the  
11 reasonable costs and expenses incurred by the office in the  
12 performance of the office's or authority's duties pursuant to  
13 the Health Care Consolidation Oversight Act for costs  
14 associated with the office's contracts with experts, unless  
15 determined otherwise by the superintendent. The office shall  
16 notify parties before any costs are incurred when a  
17 transaction review requires the use of outside experts,  
18 including the estimated cost of their services.

19 B. Upon receipt of a complete notice of a proposed  
20 transaction, the office shall determine if the transaction is  
21 urgently necessary to maintain the solvency of a hospital or  
22 if there is an emergency that threatens the continued  
23 provision of immediate health care services. In such  
24 circumstances, the office may agree to an immediate approval  
25 of a transaction with or without conditions.

1 C. Entry into a binding agreement before a  
2 transaction is effectuated is not a violation of the Health  
3 Care Consolidation Oversight Act if the transaction remains  
4 subject to regulatory review and approval.

5 D. If a party to the proposed transaction is a  
6 health insurer, the notice shall be submitted as an addendum  
7 to any filing required by Sections 59A-37-4 through 59A-37-10  
8 NMSA 1978.

9 E. The notice of the proposed transaction shall  
10 include:

11 (1) a list of the parties, the terms of the  
12 proposed transaction and copies of all transaction agreements  
13 between any of the parties;

14 (2) a statement describing the goals of the  
15 proposed transaction and whether and how the proposed  
16 transaction affects health care services in New Mexico;

17 (3) the geographic service area of any  
18 hospital affected by the proposed transaction;

19 (4) a description of the groups or  
20 individuals likely to be affected by the transaction; and

21 (5) a summary of the health care services  
22 currently provided by any of the parties and any health care  
23 services that will be added, reduced or eliminated, including  
24 an explanation of why any services will be reduced or  
25 eliminated in the service area in which they are currently

1 provided.

2 F. The office shall consult with the authority  
3 about the potential effect of the proposed transaction and  
4 incorporate the authority's recommendations into the office's  
5 final determination.

6 G. The office may retain actuaries, accountants,  
7 attorneys or other professionals who are qualified and have  
8 expertise in the type of transaction under review as  
9 necessary to assist the office in conducting its review of  
10 the proposed transaction.

11 H. The parties shall not effectuate a transaction  
12 without the written approval of the superintendent. The  
13 submitting party shall notify the office in a form and manner  
14 prescribed by the office when the transaction has been  
15 effectuated.

16 I. Parties to a proposed transaction may request a  
17 pre-notice conference to determine if they are required to  
18 file a notice or to discuss the potential extent of the  
19 review."

20 SECTION 7. A new section of the New Mexico Insurance  
21 Code is enacted to read:

22 "REVIEW OF PROPOSED TRANSACTION.--

23 A. Within one hundred twenty days of receiving a  
24 complete notice of a proposed transaction, the office shall  
25 complete a review, confer with the authority and either:



- 1 (1) approve the proposed transaction;
- 2 (2) approve the proposed transaction with
- 3 conditions; or
- 4 (3) disapprove the proposed transaction.

5 B. The superintendent shall notify the submitting  
6 party in writing of the office's determination and the  
7 reasons for the determination.

8 C. The review period may be extended if the  
9 parties agree to an extension.

10 D. In conducting a review of a proposed  
11 transaction, the office may consider the likely effect in  
12 New Mexico of the proposed transaction on:

13 (1) the potential reduction or elimination  
14 in access to essential services;

15 (2) the availability, accessibility and  
16 quality of health care services to any community affected by  
17 the transaction;

18 (3) the health care market share of a party  
19 and whether the transaction may foreclose competitors of a  
20 party from a segment of the market or otherwise increase  
21 barriers to entry in a health care market;

22 (4) changes in practice restrictions for  
23 licensed health care providers who work at the hospital;

24 (5) patient costs, including premiums and  
25 out-of-pocket costs;

1 (6) health care provider networks; and  
2 (7) the potential for the proposed  
3 transaction to affect health outcomes for New Mexico  
4 residents.

5 E. The office shall approve the proposed  
6 transaction after the comprehensive review if the office  
7 determines that:

8 (1) the parties to the proposed transaction  
9 have demonstrated that the transaction will benefit the  
10 public by:

11 (a) reducing the growth in patient  
12 costs, including premiums and out-of-pocket costs; or

13 (b) maintaining or increasing access to  
14 services, especially in medically underserved areas;

15 (2) the proposed transaction will improve  
16 health outcomes for New Mexico residents; and

17 (3) there is no substantial likelihood of:

18 (a) a significant reduction in the  
19 availability, accessibility, affordability or quality of care  
20 for patients and consumers of health care services; or

21 (b) anti-competitive effects from the  
22 proposed transaction that outweigh the benefits of the  
23 transaction."

24 SECTION 8. A new section of the New Mexico Insurance  
25 Code is enacted to read:

1 "POST-TRANSACTION OVERSIGHT.--

2 A. The person that acquired control over the  
3 hospital through an approved or conditionally approved  
4 transaction shall submit reports to the office and the  
5 authority in the form and manner prescribed by the office  
6 annually for three years after approval or conditional  
7 approval.

8 B. Reports shall:

9 (1) describe compliance with conditions  
10 placed on the transaction, if any;

11 (2) describe the growth, decline and other  
12 changes in services provided by the person; and

13 (3) provide analyses of cost trends and cost  
14 growth trends of the hospital."

15 SECTION 9. DELAYED REPEAL.--Sections 1 through 7 of  
16 this act are repealed effective July 1, 2025. \_\_\_\_\_

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