

Proposed

— COMMITTEE SUBSTITUTE FOR
SENATE BILL 271

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

DISCUSSION DRAFT

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; PROHIBITING PRIVATE EQUITY GROUPS AND HEDGE FUNDS FROM INTERFERING WITH THE PROFESSIONAL JUDGMENT OF HEALTH CARE PROVIDERS.

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

SECTION 1. [NEW MATERIAL] PRIVATE EQUITY GROUP AND HEDGE FUND OWNERSHIP IN HEALTH CARE.--

A. As used in this section:

(1) "authority" means the health care authority:

(2) "control" means the power to direct or cause the direction of the management and policies of a health care facility, whether directly or indirectly, including through the ownership of voting securities, through licensing

1 or franchise agreements or by contract other than a commercial
2 contract for goods or nonmanagement services, unless the power
3 is the result of an official position with or corporate office
4 held by an individual;

5 (3) "health care facility" means a facility
6 licensed by the authority to provide health care services in a
7 health care setting. "Health care facility" does not include:

8 (a) a hospital that is owned or operated
9 by a local, state or federal government; or
10 (b) a health care organization owned or
11 controlled by one or more health care providers who are natural
12 persons that provide health care services in New Mexico;

13 (4) "health care provider" means a person
14 certified, registered, licensed or otherwise authorized under
15 state law to perform or provide health care services;

16 (5) "health care services" means the care,
17 prevention, diagnosis, treatment or relief of an illness, an
18 injury, a disease or other medical, dental, mental or
19 behavioral health or substance use disorder condition,
20 including:

21 (a) inpatient, outpatient, rehabilitative,
22 rehabilitative, dental, palliative, home health, hospice or
23 mental or behavioral health services provided by a health care
24 entity; or

25 (b) the provision of prescription drugs

1 through retail and specialty pharmacies;

2 (6) "hedge fund" means a pool of funds by
3 investors, including a pool of funds managed or controlled by
4 private limited partnerships, if those investors or the
5 management of that pool or private limited partnership employ
6 investment strategies of any kind to earn a return on that pool
7 of funds. "Hedge fund" does not include:

8 (a) a hospital that is owned or operated
9 by a local, state or federal government; or

10 (b) a health care organization owned or
11 controlled by one or more health care providers who are natural
12 persons that provide health care services in New Mexico;

13 (7) "own" or "ownership" means:

14 (a) direct or indirect possession of
15 equity in the capital, stock or profits totaling more than five
16 percent of an entity;

17 (b) a controlling interest held by a
18 private equity group; or

19 (c) a controlling interest held by a
20 hedge fund;

21 (8) "person" means an individual, an
22 association, an organization, a partnership, a firm, a
23 syndicate, a trust, a corporation or another legal entity; and

24 (9) "private equity group" means an investor
25 or a group of investors who primarily engage in the raising or

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1 returning of capital and that invests, develops or disposes of
2 specified assets. "Private equity group" does not include:

3 (a) a hospital that is owned or operated
4 by a local, state or federal government; or

5 (b) a health care organization owned or
6 controlled by one or more health care providers who are natural
7 persons that provide health care services in New Mexico.

8 B. A private equity group or hedge fund involved in
9 any manner with a health care facility or health care provider
10 in this state shall not:

11 (1) interfere with the professional judgment
12 of a health care provider in making health care decisions,
13 including:

14 (a) determining what diagnostic tests
15 are appropriate for a particular condition;

16 (b) determining the need for referrals
17 to, or consultation with, another health care provider or
18 health care facility;

19 (c) being responsible for the ultimate
20 overall care of a patient, including determining treatment
21 options available to the patient; or

22 (d) determining how many patients a
23 health care provider shall see in a given period of time or how
24 many hours a health care provider is required to work; or

25 (2) exercise control over, or be delegated the

1 power to:

2 (a) own or otherwise determine the

3 content of patient medical records;

4 (b) select, hire or fire health care

5 providers or allied health professionals based, in whole or in
6 part, on clinical competency or proficiency;

7 (c) set the parameters under which a
8 health care provider is required to enter into contractual
9 relationships with third-party payers;

10 (d) set the parameters under which a
11 health care provider is required to enter into a contractual
12 relationship with other health care providers for the delivery
13 of care;

14 (e) make decisions regarding coding and
15 billing procedures for patient care services; or

16 (f) approve the selection of medical
17 equipment and medical supplies used by health care providers to
18 provide services to patients.

19 C. A private equity group or hedge fund, or an
20 entity owned or controlled by a private equity group or hedge
21 fund, shall not enter into a contract or other agreement with a
22 health care provider or health care facility doing business in
23 this state if the agreement or arrangement would enable the
24 private equity group or hedge fund to interfere with the
25 professional judgment of a health care provider or exercise

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1 control over a health care provider in a manner that violates
2 this section.

3 D. A contract involving the management of a health
4 care facility doing business in this state or the sale of real
5 estate or other assets owned by a health care facility doing
6 business in this state to a private equity group or hedge fund,
7 or an entity owned or controlled by a private equity group or
8 hedge fund, shall not include any clause that bars a health
9 care provider from:

10 (1) practicing health care in competition with
11 the health care facility in the event of the health care
12 provider's termination or resignation; or

13 (2) disparaging, opining or commenting on the
14 health care facility in relation to the facility's quality of
15 care, utilization of care, ethical or professional challenges
16 or revenue-increasing strategies employed by the private equity
17 group or hedge fund.

18 E. Any provision of a contract or an agreement that
19 violates this section is void, unenforceable and against public
20 policy.

21 F. Nothing in this section shall affect the
22 validity of an otherwise valid provision of a contract or an
23 agreement that prohibits the disclosure of material nonpublic
24 information about the private equity group or hedge fund that
25 is not generally available to the public.

1 G. This section shall not be construed to prohibit
2 a person who is not licensed as a health care provider from
3 assisting or consulting with a health care facility doing
4 business in this state with respect to the decisions and
5 activities described in Paragraph (2) of Subsection B of this
6 section; provided that the health care facility retains the
7 ultimate responsibility for the approval and execution of those
8 decisions and activities.

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underscored material = new
[bracketed material] = delete