

AN ACT

RELATING TO PUBLIC SAFETY; PROVIDING FOR SAFETY TRAINING FOR CERTAIN EMPLOYEES WHO TRANSPORT PERSONS IN WHEELCHAIRS; PROVIDING POWERS AND DUTIES; PRESCRIBING ADMINISTRATIVE PENALTIES.

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

Section 1. HEALTH FACILITIES--WHEELCHAIR SAFETY TRAINING--DEPARTMENT OF HEALTH POWERS AND DUTIES.--

A. As used in this section:

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

(2) "employee" means a person, hired by a health facility, whose duties include assisting a person in a wheelchair to board or exit a motor vehicle or transporting a person in a wheelchair in a motor vehicle, and includes a contractor;

(3) "health facility" means any public hospital, profit or nonprofit private hospital, general or special hospital, outpatient facility, maternity home or shelter, adult daycare facility, nursing home, intermediate care facility, boarding home not under the control of an institution of higher learning, child-care center, shelter-care home, diagnostic and treatment center, rehabilitation center, infirmary or health service organization operating as

a free-standing hospice or a home health agency; and

(4) "secretary" means the secretary of health.

B. After consultation with the public transportation programs bureau of the state highway and transportation department, the department shall develop wheelchair transportation safety training guidelines and shall provide the guidelines to all health facilities licensed by the department. The guidelines shall emphasize the following aspects of safe wheelchair transport:

- (1) boarding and exiting a vehicle;
- (2) use of lifts and tie downs;
- (3) familiarity with various types of wheelchairs and related equipment;
- (4) dealing with dangerous, emergency and unexpected conditions; and
- (5) situation assessment skills.

C. A health facility shall provide wheelchair transportation safety training to employees and every six months shall provide the department with an accurate list of persons who successfully completed the training.

D. The department shall require, as part of its regular health facility inspection pursuant to Section 24-1-5 NMSA 1978, verification by demonstration that employees have received satisfactory wheelchair transportation safety

training.

E. No health facility employee may transport a person in a wheelchair unless that employee has successfully completed wheelchair transportation safety training.

F. If the secretary determines there has been a violation of the requirements of Subsection C, D or E of this section, he may assess an administrative penalty of up to five thousand dollars (\$5,000) for a first offense and, for second and subsequent offenses, an administrative penalty of up to ten thousand dollars (\$10,000). A person subject to an administrative penalty pursuant to this subsection may request a hearing pursuant to rules established pursuant to Subsection H of this section.

G. The secretary shall, after a second or subsequent assessment of an administrative penalty, proceed with a sanction established by department rule that imposes:

- (1) a directed plan of correction;
- (2) denial of payment of federal assistance funds; or
- (3) restricted ability to transport persons in wheelchairs.

H. The department shall promulgate rules governing notice and the conduct of hearings requested after the assessment of administrative penalties pursuant to this section. Appeals may be taken as provided in Section 39-3-

1.1 NMSA 1978.

Section 2. TRANSPORTATION COMPANIES--WHEELCHAIR SAFETY TRAINING--PUBLIC REGULATION COMMISSION--POWERS AND DUTIES.--

A. As used in this section:

(1) "chief of staff" means the chief of staff of the public regulation commission;

(2) "division" means the transportation division of the public regulation commission;

(3) "employee" means a person, hired by a transportation provider, whose duties include assisting a person in a wheelchair to board or exit a motor vehicle or transporting a person in a wheelchair in a motor vehicle, and includes a contractor; and

(4) "transportation provider" means any public or private entity whose services include transportation for disabled persons, including municipal transit agencies, senior citizen centers and nonprofit social service organizations, but does not include transportation providers that function as part of a health facility licensed pursuant to the provisions of Section 24-1-5 NMSA 1978.

B. The division shall, after consultation with the public transportation programs bureau of the state highway and transportation department, develop wheelchair transportation safety training guidelines and shall provide the guidelines to all appropriate transportation companies.

The guidelines shall emphasize the following aspects of safe wheelchair transport:

- (1) boarding and exiting a vehicle;
- (2) use of lifts and tie downs;
- (3) familiarity with various types of wheelchairs and related equipment;
- (4) dealing with dangerous, emergency and unexpected conditions; and
- (5) situation assessment skills.

C. A transportation company shall provide wheelchair transportation safety training to employees and every six months shall provide the division with an accurate list of persons who successfully completed the training.

D. The division shall require verification through on-site demonstration that employees have received satisfactory wheelchair transportation safety training.

E. No employee may transport a person in a wheelchair unless that employee has successfully completed wheelchair transportation safety training.

F. If the chief of staff finds a violation of the requirements of Subsection C, D or E of this section, he may assess an administrative penalty of up to five thousand dollars (\$5,000) for a first offense and, for a second and subsequent offenses, an administrative penalty of up to ten thousand dollars (\$10,000). A person subject to an

administrative penalty pursuant to this subsection may request a hearing pursuant to rules established pursuant to Subsection H of this section.

G. The chief of staff shall, after a second or subsequent assessment of an administrative penalty, proceed with a sanction established by the public regulation commission rule that imposes:

- (1) a directed plan of correction;
- (2) denial of payment of federal assistance funds; or
- (3) restricted ability to transport persons in wheelchairs.

H. The public regulation commission shall promulgate rules governing notice and the conduct of hearings for the assessment of administrative penalties pursuant to this section. Appeals may be taken as provided in Section 39-3-1.1 NMSA 1978.