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FISCAL IMPACT REPORT

SPONSOR: Cervantes DATE TYPED: 3/7/03 HB 831

SHORT TITLE: Compact on Threatening Communicable Diseases SB _____

ANALYST: Dunbar

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 194

SOURCES OF INFORMATION

Responses Received From

Department of Health (DOH)
 Health Policy Commission (HPC)
 Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

House Bill 831 enacts the Interstate Compact on Threatening Communicable Diseases which would enable the State of New Mexico to enter into compacts with other states in order to provide access to specialized health care facilities, not available in the state, for New Mexicans infected with communicable diseases who pose a threat to the health and welfare of the community.

Significant Issues

The Interstate Compact on Communicable Diseases is summarized below:

- The purpose of the Compact, and of those states the State of New Mexico enters into agreement with, is to provide a method by which there is a legal basis to pro-

vide appropriate medical care to persons with threatening communicable diseases at medical facilities outside of the state.

- Any patient may be transferred to an institution in another state, based on clinical diagnosis and the availability of specialized care in that other state.
- A member state is obliged to provide advanced notice to the other state before sending a patient to that state, must provide medical records and must conduct a medical exam of the patient.
- An interstate patient shall, under the Compact receive the same priority as a local patient when a state has a system of priorities for admission to a hospital.
- The best suitable place of hospitalization may be reviewed and further transfer of the patient may occur if it is in the best interest of the patient.
- Patient transport may occur through any Compact state without interference.
- The transport of a patient by an institution and the responsibility for the patient welfare and costs of transport shall be the responsibility of the sending state, until the completion of the transfer. No provision of the Compact alters any agreements or internal relationships within the transporting state.
- The state may not be restricted by the Compact from asserting financial liability for the patient with another entity or person.
- Nothing in the Compact invalidates any reciprocal agreements with other non-participating states.
- A compact administrator shall be appointed by the participating state and shall assume general coordinator duties for patients under the Compact.
- A Compact state may enter into supplementary agreements with any other Compact state.
- A Compact shall enter into full force when it is enacted into legislation and will be a party to the Compact with any other states legally joining it.
- The Compact must comply to the U.S and State Constitutions and statutes and regulations and can be severable if in breach.
- The Secretary of the Department of Health shall designate the Contract administrator, who may make or arrange for necessary payments and discharge financial obligations under the Compact.
- HB831 provides rules of patient transfer under the Compact, which includes the obligations of the state and the rights of the patient with regards to patient transfer.
- The state does not require the patient or the patient's family permission to transfer a patient. The State may seek a court order to facilitate the transfer.
- The state must provide the patient or patient's family the patient's right to a court hearing. The patient has 14 days to respond. The Compact administrator is bound to respond to comply with the court's decision.

On occasion, a person with a communicable disease may not have the capacity to effectively manage a course of treatment without significant outside assistance. Currently, these individuals, under court order, are placed in a local detention center. These placements are, in most cases, inappropriate. Experience has demonstrated that sometimes the appropriate placement may be in a neighboring or home state for the individual involved. However, since these infected individuals are sometimes under court order and protection, effecting an appropriate trans-

fer is time consuming and administratively awkward. HB 831 would provide a clear and legally sufficient mechanism to accomplish this kind of appropriate interstate transfer to ensure the most effective treatment.

FISCAL IMPLICATIONS

Managing non-compliant infectious patients is already a responsibility of the Department of Health. There are no specific fiscal implications to HB 831, rather there would be efficiencies in managing these patients. The costs of transfer will need to be absorbed from state and federal funds.

RELATIONSHIP

Relates to: SB194, the Public Health Emergency Response Act. The bill provides for procedures for declaring and responding to a public health emergency, provides protection of individual civil rights, provides civil penalties for violation of the Act, and would further clarify the Governor's authority to declare and terminate a public health emergency.

OTHER SUBSTANTIVE ISSUES

The provisions in HB 831 would enable and facilitate New Mexico's being able to access specialized health care facilities for New Mexicans infected with a communicable disease and who pose a threat to the health and welfare of the community because of unwillingness or inability to comply with a recommended course of medical treatment. Currently, individuals who find themselves in this situation are placed, through judicial order, in local detention center facilities, state facilities, or other protected locales. In spite of judicial orders, detention facilities often refuse, and are generally reluctant, to admit individuals with infectious disease.

HB 831 would make it easier for the Department of Health to enter into inter-state compacts that would allow for transfer of patients across state lines so that New Mexicans can enter specialized and specialty care facilities where the standard of care includes such things as: negative pressurized rooms, provision of medications, supervised therapy according to national standards of care, safety precautions and security

According to Department of Health staff, the department identified the need for a Compact on Threatening Communicable Diseases, in part because of the need to transport tubercular patients from New Mexico for treatment in Texas. New Mexico does not have a facility to treat patients with tuberculosis.

HPC reports:

- Tuberculosis is a bacterial disease that is highly contagious, and can be transferred by a person who does not show symptoms. The disease can be life threatening. (http://www.umdj.edu/ntbcweb/tb_frame.html)
- Native Americans in NM have approximately four times the incidence of tuberculosis and four times the tuberculosis death rates as non-Indian New Mexicans (NM Vital Statistics).
- In 2000, there were 46 cases of tuberculosis in New Mexico. (Department of Health Vital Statistics for 2000).

- Currently patients with Hanta Virus are transferred from Colorado and Arizona to the UNM Hospital because of UNM Hospital's experience in treating the very serious illness. (Source: Department of Health)
- Dealing with viruses such as Ebola or smallpox would call for a very different response from public health and legal authorities compared to tuberculosis. The word "quarantine" does not appear in HB831, though the public health response in the event of a large-scale viral outbreak would likely involve the segregation of segment of the public for an undefined period.
- HB831 does not discuss the legal or medical feasibility such as quarantine issues associated with threatening communicable diseases.
- For a transfer to be appropriate, the transferring hospital must provide the care it can, minimize transfer risks, and provide copies of medical records. The receiving facility must have space and qualified personnel and agree to accept the transfer. Qualified personnel with necessary equipment must make the transfer. Receiving hospitals with specialized capabilities, such as burn units, specialized pulmonary units, or intensive care units, are obligated to accept transfers if they have the capacity to treat them.

BD/njw