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HOUSE BILL 301

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Max Coll

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO HEALTH FACILITIES; PROVIDING FOR OVERSIGHT OF HOSPITALS AND LONG-TERM CARE FACILITIES BY THE SECRETARY OF HEALTH; ENACTING A NEW SECTION OF THE PUBLIC HEALTH ACT.

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

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

"24-1-1. SHORT TITLE. -- [~~Sections 1 through 22 of this act]~~ Chapter 24, Article 1 NMSA 1978 may be cited as the "Public Health Act". "

Section 2. A new section of the Public Health Act is enacted to read:

"[NEW MATERIAL] CONDITIONS OF OBTAINING OR MAINTAINING LICENSURE. --

A. A hospital or a long-term care facility, as a

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1 condition of obtaining or maintaining its license, shall
2 provide information sufficient for the secretary to make a
3 reasonable assessment of its financial viability and
4 sustainability. Information provided to the secretary shall
5 remain confidential and is exempt from the Inspection of Public
6 Records Act. The hospital or long-term care facility shall
7 provide this information to the secretary ninety days before
8 the anticipated effective date of any of the following events:

9 (1) a change in control of the ownership of
10 the hospital or the long-term care facility;

11 (2) a change in organizational control of the
12 hospital or the long-term care facility; or

13 (3) a proposed licensure, closure, disposition
14 or acquisition of the hospital or the long-term care facility
15 or its programs or services required by the department of
16 health.

17 B. The secretary shall not oppose a hospital's or a
18 long-term care facility's notice pursuant to Subsection A of
19 this section unless the secretary finds sufficient evidence to
20 conclude that the notice:

21 (1) is not consistent with the department's
22 strategic plan and is not outlined in the comprehensive
23 strategic plan for health in New Mexico;

24 (2) is contrary to the best interests of the
25 state taken as a whole; or

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(3) will substantially impair:

(a) access to the hospital or the long-term care facility; or

(b) the quality of care delivered to patients in the hospital's or the long-term care facility's service area.

C. The secretary may develop a process to prevent closed long-term care facility beds from being reopened and shall redirect funds toward community-based services.

D. The secretary may convene the necessary parties, including state agencies or independent consultants, to develop a remedial plan that resolves any financial solvency or sustainability deficiencies of the hospital or the long-term care facility.

E. Upon reviewing the written notice submitted by the hospital or the long-term care facility, the secretary may impose a fine or penalty as provided by department rule.

F. The hospital or the long-term care facility may at any time request a hearing. The hearing shall be in accordance with procedures adopted by rule of the department and the Administrative Procedures Act.

G. The parties to a hearing shall include the hospital or the long-term care facility, the secretary and the attorney general, who shall represent the interests of patients.

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H. 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 as a critical access hospital, general hospital, long-term acute care hospital, psychiatric hospital, rehabilitation hospital, limited services hospital and special hospital; and

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

Section 3. TEMPORARY PROVISION--OVERSIGHT OF OTHER HEALTH FACILITIES.--The secretary of health shall evaluate the need to apply the provisions of Section 2 of this act to all other health facilities as defined in Section 24-1-2 NMSA 1978. The secretary shall report findings and recommendations to the legislative health and human services committee by October 1, 2004.