

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 295

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

AN ACT

RELATING TO HEALTH CARE; REQUIRING DRUG AND ALCOHOL TESTING FOR
DIRECT HEALTH CARE PROVIDERS IN STATE HEALTH CARE FACILITIES.

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

**SECTION 1. DRUG TESTING FOR HEALTH CARE PROVIDERS IN
STATE HEALTH CARE FACILITIES--GROUNDS--RULEMAKING.--**

A. A health care provider hired to provide direct
care to patients in a state health care facility shall be
tested for illicit and prescription drug and alcohol abuse
prior to employment.

B. At least once every calendar year after hire,
while working, a state health care provider providing direct
care to patients in a state health care facility shall be
tested for illicit and prescription drug and alcohol abuse.

C. A health care provider providing direct care to

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1 patients in a state health care facility who is reasonably
2 suspected of abusing illicit or prescription drugs or alcohol
3 while working shall undergo drug testing without prior notice
4 to the health care provider.

5 D. The department of health shall promulgate rules
6 to establish:

7 (1) when a health care provider is reasonably
8 suspected of abusing illicit or prescription drugs or alcohol
9 while working;

10 (2) the protocol governing testing for illicit
11 and prescription drugs and alcohol;

12 (3) what persons shall be considered reliable
13 reporting parties for the purposes of this section; and

14 (4) any disciplinary action, addiction
15 interventions or fines pursuant to this section.

16 E. When promulgating rules pursuant to Subsection D
17 of this section, the department of health shall consult with
18 representatives from:

19 (1) the New Mexico medical board;

20 (2) the board of nursing; and

21 (3) the New Mexico medical review commission.

22 F. For the purposes of this section:

23 (1) "health care provider" means any health
24 care staff member who is licensed, certified or otherwise
25 authorized or permitted by law to provide direct unsupervised

1 health care to a patient;

2 (2) "illicit or prescription drug" means a
3 substance listed in any of Schedules I through V of the
4 Controlled Substances Act; and

5 (3) "state health care facility" means a
6 hospital, an entity providing services for the developmentally
7 disabled, a shelter care home, a free-standing hospice or a
8 home health agency that the department of health operates.

9 G. Results of drug tests made pursuant to the
10 provisions of this section shall be treated as confidential
11 medical information, and only aggregate test data shall be
12 subject to review by the department of health.

13 H. A person who in good faith reports that a health
14 care provider has been abusing illicit or prescription drugs or
15 alcohol while working shall not be held liable for civil
16 damages as a result of the report; provided that the health
17 care provider reported as abusing illicit or prescription drugs
18 or alcohol shall have the right to sue for damages sustained as
19 a result of negligent or intentional reporting of inaccurate
20 information or the disclosure of information to an unauthorized
21 person.