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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 and subject to random drug testing
thereafter.

B. A health care provider providing direct care to
patients in a state health care facility who is reasonably
suspected of abusing illicit or prescription drugs or alcohol
while working shall undergo drug testing without prior notice
to the health care provider.

C. The department of health shall promulgate rules
to establish:

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

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

1 (3) what persons shall be considered
2 reliable reporting parties for the purposes of this section;

3 (4) any disciplinary action, addiction
4 interventions or fines pursuant to this section; and

5 (5) the definition of "direct care" for the
6 purposes of this section.

7 D. When promulgating rules pursuant to Subsection
8 D of this section, the department of health shall consult
9 with representatives from:

10 (1) the New Mexico medical board;

11 (2) the board of nursing; and

12 (3) the New Mexico medical review
13 commission.

14 E. For the purposes of this section:

15 (1) "health care provider" means any health
16 care staff member who is licensed, certified or otherwise
17 authorized or permitted by law to provide direct unsupervised
18 health care to a patient;

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

22 (3) "state health care facility" means a
23 hospital, an entity providing services for the
24 developmentally disabled, a shelter care home, a
25 free-standing hospice or a home health agency that the

1 department of health operates.

2 F. Results of drug tests made pursuant to the
3 provisions of this section shall be treated as confidential
4 medical information, and only aggregate test data shall be
5 subject to review by the department of health.

6 G. A person who in good faith reports that a
7 health care provider has been abusing illicit or prescription
8 drugs or alcohol while working shall not be held liable for
9 civil damages as a result of the report; provided that the
10 health care provider reported as abusing illicit or
11 prescription drugs or alcohol shall have the right to sue for
12 damages sustained as a result of negligent or intentional
13 reporting of inaccurate information or the disclosure of
14 information to an unauthorized person. _____

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