

LFC Requester:

Eric Chenier

AGENCY BILL ANALYSIS  
2024 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

**SECTION I: GENERAL INFORMATION**

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original  Amendment   
Correction  Substitute

Date 1/25/24

Bill No: SB15

Sponsor: Sen. Duhigg  
Short Title: Healthcare Consolidation Oversight Act

Agency Name and Code HSD-630  
Number:  
Person Writing Paoze Her  
Phone: Email Paoze.her@hsd.nm.go

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
\$0	\$0	NA	NA

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
\$0	\$0	\$0	NA	NA

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
	na	\$50.0 to \$125.0	\$50.0 to \$125.0	\$100.0 to \$250.0	Recurring	General Fund
	na	\$50.0 to \$125.0	\$50.0 to \$125.0	\$100.0 to \$250.0	Recurring	Federal Funds
<b>Total</b>		\$100.0 to \$250.0	\$100.0 to \$250.0	\$200.0 to \$500.0		Total

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: Senate Bill 15 (SB 15) adds a new section to the New Mexico Insurance Code cited as the “Health Care Consolidation Oversight Act”. The new provision would provide a process to review and approve mergers, acquisitions, and other material changes in control of certain health care entities doing business in the state.

Section 2 provides the definitions, e.g., “essential services” means any health care services covered by the state Medicaid program, “authority” refers the Health Care Authority (HCA), and “office” is the office of superintendent of insurance (OSI). Section 3 states that the oversight power of the office and authority applies to proposed transactions that involve a health care entity with an average annual revenue of at least twenty million dollars (\$20,000,000) in the immediately preceding three years or a new entity that will do at least ten million dollars (\$10,000,000) in average annual revenue over the first three years of operation, except training and educational programs, federally qualified health centers, a contract with a health provider, an employer that is not a health care entity, or long term care and child care facilities.

Section 4 makes any supporting documents submitted by a health care entity public records unless specifically identified to contain trade secrets. Section 5 allows the office and authority to set conditions for health care entity that another state has oversight. Section 6 describes the timeline for data submission and review. Section 7 requires the proposed party to submit the prescribed documents for website posting and applicable fee; it also allows the office and authority to seek subject matter experts for assistance.

Section 8 states that the office will review the proposed transaction no later than 45 days after receiving notice of completion. Section 9 describes the comprehensive review process with respect to the potential effect on access to services, quality of care, impact on the health care market, etc. Section 10 gives the office authority to establish a stakeholder advisory committee to review and make recommendations on the proposed transaction. Section 11 allows the office to recoup legal fees if the office is to enforce conditional permission or approval. And Section 12 imposes a misdemeanor penalty for providing false or misleading information with up to one year in jail and up to \$1,000 fine.

This bill would become effective immediately.

## **FISCAL IMPLICATIONS**

The review process described in SB 15 may have a fiscal impact to the Medicaid program of between \$100,000 and \$250,000 (\$50,000 to \$125,000 GF) per year depending on scope of the review and expertise required. The potential fiscal impact is on a case-by-case basis; and is based on the current hourly cost of actuaries and auditors contracted with the Medicaid program, should they be needed for review/analysis of any proposals.

## **SIGNIFICANT ISSUES**

SB15 applies to the following facilities licensed by the Division of Health Improvement (DHI): hospitals including critical access hospitals, general hospitals, long-term acute care hospitals, psychiatric hospitals, rehabilitation hospitals, limited services hospitals and special hospitals; inpatient facilities, ambulatory surgical or treatment centers, diagnostic, laboratory and imaging centers, free-standing emergency facilities, freestanding birth centers, outpatient clinics, and rehabilitation and other therapeutic health settings; provided that "health care facility" does not include long-term care facilities, adult daycare facilities, intermediate care facilities, boarding homes, child care facilities or shelter care homes.

SB15 specifies the timing of review and notification of the completion by the Office of the Superintendent of Insurance, but does not outline how OSI will coordinate with DHI regarding the timing of the review and approval of the transaction and the timing of licensing and change of ownership as set forth in 7.1.7 NMAC, 7.7.2 NMAC, 7.10.2 NMAC, 7.11.2 NMAC, 7.36.2 NMAC. The timing is unclear about whether the review and approval process by OSI would take place first, if the licensing process would occur first, or if they would occur at the same time.

It is unclear if a potential situation could occur where either OSI or DHI may approve their process and the other deny approval creating a conflict.

Page 12 section E line 21 through 24, and section F, line 25 through page 13 lines 1-3 indicates that the office may consult with the authority about the potential effect of the proposed transaction.

SB15 does not require OSI to notify the licensing authority if the transaction can proceed with approval.

## **PERFORMANCE IMPLICATIONS**

DHI would be required to coordinate with OSI prior to issuing a new or change of ownership license to a health facility.

## **ADMINISTRATIVE IMPLICATIONS**

See performance implications above.

No IT impact.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None.

**TECHNICAL ISSUES**

None.

**OTHER SUBSTANTIVE ISSUES**

None.

**ALTERNATIVES**

None.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo.

**AMENDMENTS**

None.