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HOUSE BILL 60

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

Yvette Herrell

AN ACT

RELATING TO HEALTH CARE; AMENDING THE DEPARTMENT OF HEALTH ACT  
TO SPECIFY STATE HEALTH CARE FACILITIES THAT REQUIRE DRUG  
TESTING OF HEALTH CARE PROVIDERS WHO WORK THERE.

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

SECTION 1. Section 9-7-18 NMSA 1978 (being Laws 2011,  
Chapter 90, Section 1) is amended to read:

"9-7-18. 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

underscoring material = new  
[bracketed material] = delete

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 C. The department [~~of health~~] shall promulgate  
6 rules 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;

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

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

18 D. When promulgating rules pursuant to Subsection  
19 [~~D~~] C of this section, the department [~~of health~~] shall consult  
20 with representatives from:

21 (1) the New Mexico medical board;

22 (2) the board of nursing; and

23 (3) the New Mexico medical review commission.

24 E. For the purposes of this section:

25 (1) "health care provider" means any health

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1 care staff member who is licensed, certified or otherwise  
2 authorized or permitted by law to provide direct unsupervised  
3 health care to a patient;

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

7 (3) "state health care facility" means [~~a~~  
8 ~~hospital, an entity providing services for the developmentally~~  
9 ~~disabled, a shelter care home, a free-standing hospice or a~~  
10 ~~home health agency that the department of health operates]~~ the  
11 Fort Bayard medical center, New Mexico behavioral health  
12 institute at Las Vegas, Turquoise lodge, southern New Mexico  
13 rehabilitation center, New Mexico state veterans' home, Los  
14 Lunas community program and Sequoyah adolescent treatment  
15 center.

16 F. Results of drug tests made pursuant to the  
17 provisions of this section shall be treated as confidential  
18 medical information, and only aggregate test data shall be  
19 subject to review by the department [~~of health~~].

20 G. A person who in good faith reports that a health  
21 care provider has been abusing illicit or prescription drugs or  
22 alcohol while working shall not be held liable for civil  
23 damages as a result of the report; provided that the health  
24 care provider reported as abusing illicit or prescription drugs  
25 or alcohol shall have the right to sue for damages sustained as

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1 a result of negligent or intentional reporting of inaccurate  
2 information or the disclosure of information to an unauthorized  
3 person."

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