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SENATE BILL 289

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

Craig W. Brandt

AN ACT

RELATING TO HEALTH CARE; ENACTING THE WHOLE WOMAN'S HEALTH
FUNDING PRIORITIES ACT; PROVIDING FOR THE PRIORITIZATION OF
PUBLIC FUNDS ALLOCATED FOR FAMILY PLANNING SERVICES;
PROHIBITING THE USE OF PUBLIC FUNDS FOR ENTITIES THAT PERFORM
NON-FEDERALLY QUALIFIED ABORTIONS OR OPERATE OR MAINTAIN
FACILITIES THAT PERFORM NON-FEDERALLY QUALIFIED ABORTIONS;
PROVIDING FOR ATTORNEY GENERAL ENFORCEMENT.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Whole Woman's Health Funding Priorities Act".

SECTION 2. [NEW MATERIAL] FINDINGS AND PURPOSE.--

A. The legislature finds that limited federal and
state public funding exists for family planning and
preventative health services for women, generally, and for

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1 maternal and fetal patients in particular. Further, fiscal
2 constraints mandate that the state allocate available funding
3 efficiently, prioritizing funds to the most efficient point-of-
4 service health care providers.

5 B. The legislature finds that public and private
6 providers of primary care and preventative care utilize public
7 funds more effectively than specialized providers of health
8 care services that focus on particular medical services or
9 discrete patient populations. The legislature further finds
10 that health care costs are lowered when primary and
11 preventative care is provided in a setting that addresses the
12 whole person by emphasizing counseling, screening and early
13 detection of leading causes of morbidity and mortality,
14 including diabetes, hypertension, obesity, cardiovascular and
15 renal diseases and asthma.

16 C. The legislature finds that delivery of these
17 critical services is best accomplished through a single point-
18 of-service provider such as a primary care clinician who can
19 provide comprehensive care and who has knowledge of the
20 patient's medical history and personal, familial and
21 environmental health factors. The legislature further finds
22 that maternal and fetal patients should have access to
23 comprehensive medical care, including preconception and
24 prenatal care, in order to reduce maternal and fetal morbidity
25 and mortality. Consequently, it is the intention of the

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1 legislature to prioritize the distribution of public funds for
2 family planning, reproductive health care and maternal and
3 fetal care to primary and preventive care providers. Moreover,
4 it is the public policy of the state that public funds shall
5 not be used, directly or indirectly, to provide nontherapeutic
6 abortion procedures.

7 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the
8 Whole Woman's Health Funding Priorities Act:

9 A. "abortion" means the use of any means to
10 terminate the clinically diagnosable pregnancy of a woman with
11 knowledge that the termination will cause, with reasonable
12 likelihood, the death of the unborn child. Abortion does not
13 include the use of birth control devices or oral
14 contraceptives, termination of an ectopic pregnancy, the use of
15 any means to increase the probability of a live birth or the
16 removal of a dead fetus;

17 B. "department" means the department of health;

18 C. "federally qualified health center" means a
19 health care provider that is eligible for federal funding under
20 Title 19 of the federal Social Security Act;

21 D. "hospital" means a primary or tertiary care
22 facility licensed pursuant to Chapter 24, Article 1 NMSA 1978;

23 E. "non-federally qualified abortion" means an
24 abortion that is not qualified for federal reimbursement under
25 the medicaid program pursuant to the federal Social Security

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1 Act;

2 F. "public funds" means state funds from whatever
3 source, including funds provided pursuant to the federal Public
4 Health Service Act and the federal Social Security Act; and

5 G. "rural health clinic" means a health care
6 provider that is eligible for federal funding under 42 U.S.C.
7 Section 1395x(aa)(2).

8 SECTION 4. [NEW MATERIAL] PRIORITIZATION OF PUBLIC FUNDS
9 TO CERTAIN HEALTH CARE ENTITIES.--

10 A. Any expenditure of public funds for family
11 planning services shall be made in the following order of
12 priority to:

- 13 (1) public entities;
- 14 (2) nonpublic hospitals and federally
15 qualified health centers;
- 16 (3) rural health clinics; and
- 17 (4) nonpublic health providers that have as
18 their primary purpose provision of the primary health care
19 services enumerated in 42 U.S.C. Section 254b(a)(1).

20 B. The department shall not enter into a contract
21 with or make a grant to any entity that performs non-federally
22 qualified abortions or maintains or operates a facility where
23 non-federally qualified abortions are performed.

24 SECTION 5. [NEW MATERIAL] ENFORCEMENT.--

25 A. The attorney general shall have authority to

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1 bring an action to enforce the provisions of the Whole Woman's
2 Health Funding Priorities Act and may petition the court for
3 declaratory or injunctive relief and restitution.

4 B. If the state prevails in an action pursuant to
5 this section, the state shall be entitled to recover the costs
6 of investigation, costs of the action and reasonable attorney
7 fees.

8 SECTION 6. [NEW MATERIAL] RIGHT OF INTERVENTION.--The
9 legislature, through one or more appointed representatives, may
10 intervene as a matter of right in any case in which the
11 constitutionality of the Whole Woman's Health Funding
12 Priorities Act is challenged.

13 SECTION 7. [NEW MATERIAL] SEVERABILITY.--If any part or
14 application of the Whole Woman's Health Funding Priorities Act
15 is held invalid, the remainder or its application to other
16 situations or persons shall not be affected.

17 SECTION 8. [NEW MATERIAL] EFFECT ON APPROPRIATIONS.--Any
18 contract or appropriation of public funds made by the
19 department in violation of the provisions of the Whole Woman's
20 Health Funding Priorities Act shall be null and void and any
21 funds allocated in violation of that act shall be reallocated
22 to eligible entities.

23 SECTION 9. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2014.