

AN ACT

RELATING TO FREEDOM OF CHOICE; REQUIRING THE DEPARTMENT OF HEALTH AND ITS PROVIDERS TO PROVIDE CLIENTS WITH DEVELOPMENTAL DISABILITIES OR MENTAL RETARDATION, OR MENTAL HEALTH FREEDOM OF CHOICE IN SELECTING CASE MANAGEMENT AGENCIES AND THERAPISTS.

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

Section 1. COMMUNITY-BASED DEVELOPMENTAL DISABILITIES AND MENTAL RETARDATION SERVICES--FREEDOM OF CHOICE. --

A. The department of health shall ensure that each client of community-based developmental disability or mental retardation, or mental health services is given freedom of choice to select his case management agency from the department's list of case management agencies and that the client is given freedom of choice to select his therapist or other service provider from the case management agency's list of therapists and other service providers. After the effective date of this section, all pertinent contracts with case management agencies shall include a provision that failure to honor a client's freedom of choice right may result in termination of the contract. The department shall also inform case management agencies that have contracts with the department on the effective date of this section that contracts are subject to termination for

failure to honor clients' freedom of choice.

B. The office of internal audit of the department of health shall audit referral processes of the department and the case management agencies to determine accuracy and compliance with the provisions of Subsection A of this section. If the internal auditor finds that the department or a case management agency has violated a client's freedom of choice, it shall notify the secretary of health. The secretary of health shall take corrective action to ensure that a client's right of freedom of choice is protected. If a case management agency continues to violate a client's freedom of choice after corrective action has been taken, the department shall terminate its contract with the agency. The internal auditor shall report to the governor and the legislature, through its appropriate standing or interim committees, if corrective action is not successful.