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SENATE BILL 282

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Gerald Ortiz y Pino

AN ACT

RELATING TO HEALTH; ESTABLISHING A PATIENT'S RIGHTS TO CERTAIN
HEALTH CARE SERVICES; ESTABLISHING DAMAGES.

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

SECTION 1. ~~[NEW MATERIAL]~~ HOSPITALS--PROHIBITED ACTS--
PATIENT PROTECTIONS.--

A. Notwithstanding the provisions of any other
state law, a hospital shall not:

(1) refuse to provide a reproductive health
service to a patient if withholding the reproductive health
service would result in or prolong a serious risk to the
patient's life or health; and

(2) provided that a health care practitioner
is acting in good faith and in accordance with generally
accepted health care standards related to the health care

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1 practitioner, limit or otherwise interfere with a health care
2 practitioner's independent professional judgment related to the
3 provision of reproductive health services in any of the
4 following ways:

5 (a) limiting the health care
6 practitioner's duty to provide a patient with comprehensive,
7 medically accurate information about the patient's health
8 status, including diagnosis, prognosis, recommended treatment,
9 treatment alternatives and any potential risks to the patient's
10 health or life;

11 (b) limiting the health care
12 practitioner's referrals for health care services;

13 (c) limiting the timing of a referral;
14 and

15 (d) prohibiting the health care
16 practitioner from offering or providing reproductive health
17 services in cases where there is a serious risk to the
18 patient's life or health or where a failure to provide the
19 reproductive health service would violate the medical standard
20 of care owed to the patient.

21 B. A patient or health care practitioner who is
22 aggrieved by a violation of this section may bring a civil
23 action in a court of competent jurisdiction to enjoin further
24 violations or to recover damages sustained by the patient or
25 health care practitioner, or both.

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1 C. Upon finding a violation of this section, the
2 aggrieved party shall be entitled to recover for each
3 violation; provided that recovery shall be at least five
4 thousand dollars (\$5,000) per violation in addition to costs of
5 the action and attorney fees:

- 6 (1) injunctive relief or declaratory relief;
- 7 (2) actual damages, including damages for pain
8 and suffering;
- 9 (3) treble damages;
- 10 (4) reasonable attorney and expert witness
11 fees and all other costs of the action; or
- 12 (5) any other relief which the court deems
13 proper.

14 D. As used in this section:

- 15 (1) "health care practitioner" means an
16 individual who is licensed or otherwise authorized by the state
17 to furnish health care services in the ordinary course of
18 business and who is acting within the health care
19 practitioner's authorized scope of practice;
- 20 (2) "hospital" means a hospital that the
21 department of health licenses pursuant to the Public Health Act
22 and that provides emergency health care services;
- 23 (3) "medically accurate information" means
24 information that has been:
 - 25 (a) verified or supported by the weight

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1 of peer-reviewed medical research conducted in compliance with
2 accepted scientific methods;

3 (b) recognized as correct and objective
4 by leading medical organizations with relevant expertise; or

5 (c) recommended by or affirmed in the
6 medical practice guidelines of a nationally recognized
7 accrediting organization; and

8 (4) "reproductive health services" means
9 contraception; termination of pregnancy; treatment of ectopic
10 pregnancy; miscarriage management; assisted reproductive
11 technology, including infertility treatment; screening and
12 treatment of sexually transmitted infections and services
13 related to human immunodeficiency virus and acquired immune
14 deficiency syndrome; pregnancy and post-natal care; and
15 sterilization.

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