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HOUSE BILL 271

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Edward C. Sandoval

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO BEHAVIORAL HEALTH; ESTABLISHING AN INTERAGENCY BEHAVIORAL HEALTH PURCHASING COLLABORATIVE AND A BEHAVIORAL HEALTH PLANNING COUNCIL; PRESCRIBING POWERS, DUTIES AND MEMBERSHIP; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2003.

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

Section 1. A new section of the Public Health Act is enacted to read:

"NEW MATERIAL BEHAVIORAL HEALTH PLANNING COUNCIL CREATED-- POWERS AND DUTIES-- MEMBERSHIP.-- There is created the "behavioral health planning council".

A. The council shall consist of the following members, all of whom shall be appointed by and serve at the pleasure of the governor:

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- 1 (1) consumers of behavioral health services
2 and consumers of substance abuse services, as follows:
3 (a) adults with serious mental illness;
4 (b) seniors;
5 (c) family members of adults with
6 serious mental illness and of children with serious emotional
7 or neurobiological disorders;
8 (d) persons with co-occurring disorders;
9 and
10 (e) Native American representatives from
11 a pueblo, an Apache tribe, the Navajo Nation and an urban
12 Native American population;
13 (2) providers;
14 (3) state agency representation from agencies
15 responsible for:
16 (a) adult mental health and substance
17 abuse;
18 (b) children's mental health and
19 substance abuse;
20 (c) education;
21 (d) vocational rehabilitation;
22 (e) criminal justice;
23 (f) juvenile justice;
24 (g) housing;
25 (h) medicaid and social services;

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- 1 (i) health policy planning;
- 2 (j) developmental disabilities planning;

3 and

- 4 (k) disabilities issues and advocacy;

5 (4) such other members as the governor may
6 appoint to ensure appropriate cultural and geographic
7 representation; and

- 8 (5) advocates.

9 B. Providers and state agency representatives
10 together may not constitute more than forty-nine percent of the
11 council membership.

12 C. The council shall:

13 (1) advocate for adults, children and
14 adolescents with serious mental illness or severe emotional,
15 neurological and behavioral disorders, as well as those with
16 mental illness or emotional problems, including substance abuse
17 and co-occurring disorders;

18 (2) report annually to the governor and the
19 legislature on the adequacy and allocation of mental health
20 services throughout the state;

21 (3) encourage and support the development of a
22 comprehensive, integrated, community-based behavioral health
23 system of care, including mental health and substance abuse
24 services, and services for persons with co-occurring disorders;

25 (4) advise state agencies responsible for

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1 behavioral health services for children and adults, as those
2 agencies are charged in Section 9-7-6.4 NMSA 1978;

3 (5) meet regularly and at the call of the
4 chair, who shall be appointed by the governor;

5 (6) establish subcommittees, to meet at least
6 quarterly, as follows:

7 (a) a medicaid subcommittee, chaired by
8 the secretary of human services or a designee, which may also
9 serve as a subcommittee of the medicaid advisory committee;

10 (b) a child and adolescent subcommittee,
11 chaired by the secretary of children, youth and families or a
12 designee;

13 (c) an adult subcommittee, chaired by
14 the secretary of health or a designee;

15 (d) a substance abuse subcommittee,
16 chaired by the secretary of health or a designee, which shall
17 include DWI issues and shall include representation from local
18 DWI councils; and

19 (e) other subcommittees as may be
20 established by the chair of the council to address specific
21 issues. All subcommittees may include nonvoting members
22 appointed by the chair for purposes of providing expertise
23 necessary to the charge of the respective subcommittee;

24 (7) review and make recommendations for the
25 comprehensive mental health state block grant and the substance

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1 abuse block grant applications, the state plan for medicaid
2 services and any other plan or application for federal or
3 foundation funding for behavioral health services; and

4 (8) replace the governor's mental health
5 planning council and act in accordance with Public Law 102-321
6 of the federal Public Health Service Act. "

7 Section 2. Section 9-2A-8 NMSA 1978 (being Laws 1992,
8 Chapter 57, Section 8, as amended) is amended to read:

9 "9-2A-8. DEPARTMENT--ADDITIONAL DUTIES.--In addition to
10 other duties provided by law or assigned to the department by
11 the governor, the department shall:

12 A. develop priorities for department services and
13 resources based on state policy and national best-practice
14 standards and local considerations and priorities;

15 B. strengthen collaboration and coordination in
16 state and local services for children, youth and families by
17 integrating critical functions as appropriate, including
18 service delivery and contracting for services across divisions
19 and related agencies;

20 C. develop and maintain a statewide database,
21 including client tracking of services for children, youth and
22 families;

23 D. develop standards of service within the
24 department that focus on prevention, monitoring and outcomes;

25 E. analyze policies of other departments that

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1 affect children, youth and families to encourage common
2 contracting procedures, common service definitions and a
3 uniform system of access;

4 F. enact regulations to control disposition and
5 placement of children under the Children's Code, including
6 regulations to limit or prohibit the out-of-state placement of
7 children, including those who have developmental disabilities
8 or emotional, neurobiological or behavioral disorders, when in-
9 state alternatives are available;

10 G. develop reimbursement criteria for licensed
11 child care centers and licensed home providers establishing
12 that accreditation by a department-approved national
13 accrediting body is sufficient qualification for the child care
14 center or home provider to receive the highest reimbursement
15 rate paid by the department;

16 H. assume and implement ~~[the lead]~~ responsibility
17 ~~[among all departments]~~ for children's mental health and
18 substance abuse ~~[treatment authority]~~ services in the state,
19 coordinating with the human services department and the
20 department of health;

21 I. assume and implement the lead responsibility
22 among all departments for domestic violence services;

23 J. implement prevention and early intervention as a
24 departmental focus; ~~[and]~~

25 K. conduct biennial assessments of service gaps and

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1 needs and establish outcome measurements to address those
2 service gaps and needs, including recommendations from the
3 governor's children's cabinet and the children, youth and
4 families advisory committee; and

5 L. ensure that behavioral health services provided,
6 including mental health and substance abuse services for
7 children, adolescents and their families, shall be in
8 compliance with requirements of Section 9-7-6.4 NMSA 1978. "

9 Section 3. Section 9-3-5 NMSA 1978 (being Laws 1977,
10 Chapter 257, Section 6, as amended) is amended to read:

11 "9-3-5. SECRETARY--DUTIES AND GENERAL POWERS. --

12 A. The secretary of corrections is responsible to
13 the governor for the operation of the corrections department.
14 It is his duty to manage all operations of the department and
15 to administer and enforce the laws with which he or the
16 department is charged.

17 B. To perform his duties, the secretary has every
18 power expressly enumerated in the laws, whether granted to the
19 secretary of the department or any division of the department,
20 except where authority conferred upon any division [~~therein~~] is
21 explicitly exempted from the secretary's authority by statute.

22 In accordance with these provisions, the secretary shall:

23 (1) except as otherwise provided in the
24 Corrections Department Act, exercise general supervisory and
25 appointing authority over all department employees, subject to

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1 any applicable personnel laws and regulations;

2 (2) delegate authority to subordinates as he
3 deems necessary and appropriate, clearly delineating such
4 delegated authority and the limitations thereto;

5 (3) organize the department into those
6 organizational units he deems will enable it to function most
7 efficiently, subject to any provisions of law requiring or
8 establishing specific organizational units;

9 (4) within the limitations of available
10 appropriations and applicable laws, employ and fix the
11 compensation of those persons necessary to discharge his
12 duties;

13 (5) take administrative action by issuing
14 orders and instructions, not inconsistent with the law, to
15 assure implementation of and compliance with the provisions of
16 law [~~with the~~] for whose administration or execution [~~of which~~]
17 he is responsible and to enforce those orders and instructions
18 by appropriate administrative action or actions in the courts;

19 (6) conduct research and studies that will
20 improve the operations of the department and the provision of
21 services to the citizens of the state;

22 (7) provide courses of instruction and
23 practical training for employees of the department and other
24 persons involved in the administration of programs with the
25 objective of improving the operations and efficiency of

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1 administration;

2 (8) prepare an annual budget of the
3 department;

4 (9) provide cooperation, at the request of
5 heads of administratively attached agencies, in order to:

6 (a) minimize or eliminate duplication of
7 services and jurisdictional conflicts;

8 (b) coordinate activities and resolve
9 problems of mutual concern; and

10 (c) resolve by agreement the manner and
11 extent to which the department shall provide budgeting, record-
12 keeping and related clerical assistance to administratively
13 attached agencies;

14 (10) appoint, with the governor's consent, a
15 "director" for each division [~~a "director"~~]. These appointed
16 positions are exempt from the provisions of the Personnel Act.
17 Persons appointed to these positions shall serve at the
18 pleasure of the secretary;

19 (11) give bond as provided in the Surety Bond
20 Act. The department shall pay the costs of [~~such~~] the bonds;
21 and

22 (12) require performance bonds of such
23 department employees and officers as he deems necessary, as
24 provided in the Surety Bond Act. The department shall pay the
25 costs of [~~such~~] the bonds.

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1 C. The secretary may apply for and receive, with
2 the governor's approval, in the name of the department any
3 public or private funds, including [~~but not limited to~~] United
4 States government funds, available to the department to carry
5 out its programs, duties or services.

6 D. Where functions of departments overlap or a
7 function assigned to one department could better be performed
8 by another department, a secretary may recommend appropriate
9 legislation to the next session of the legislature for its
10 approval.

11 E. The secretary may make and adopt such reasonable
12 and procedural rules and regulations as may be necessary to
13 carry out the duties of the department and its divisions. No
14 rule or regulation promulgated by the director of any division
15 in carrying out the functions and duties of the division shall
16 be effective until approved by the secretary. Unless otherwise
17 provided by statute, no regulation affecting any person or
18 agency outside the department shall be adopted, amended or
19 repealed without a public hearing on the proposed action before
20 the secretary or a hearing officer designated by him. The
21 public hearing shall be held in Santa Fe unless otherwise
22 permitted by statute. Notice of the subject matter of the
23 regulation, the action proposed to be taken, the time and place
24 of the hearing, the manner in which interested persons may
25 present their views and the method by which copies of the

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1 proposed regulation, proposed amendment or repeal of an
2 existing regulation may be obtained shall be published once at
3 least thirty days prior to the hearing date in a newspaper of
4 general circulation and mailed at least thirty days prior to
5 the hearing date to all persons who have made a written request
6 for advance notice of hearing. All rules and regulations shall
7 be filed in accordance with the State Rules Act.

8 F. Behavioral health services, including mental
9 health and substance abuse services, provided by the department
10 for persons under the department's supervision shall be in
11 compliance with the requirements of Section 9-7-6.4 NMSA 1978."

12 Section 4. Section 9-7-3 NMSA 1978 (being Laws 1977,
13 Chapter 253, Section 3, as amended) is amended to read:

14 "9-7-3. PURPOSE. --The purpose of the Department of Health
15 Act is to establish a single, unified department to administer
16 the laws and exercise the functions relating to health formerly
17 administered and exercised by various organizational units of
18 state government, including the state health agency, the
19 scientific laboratory system and an appropriate allocation of
20 administrative support services of the health and social
21 services department and the hospital and institutions
22 department. All public health [~~behavioral health~~] and
23 scientific laboratory functions formerly performed by the
24 health and environment department shall be performed by the
25 department [~~of health~~]. Behavioral health services, including

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1 mental health and substance abuse services, provided by or
2 through the department shall be subject to the direction of the
3 secretary and the provisions of Section 9-7-6.4 NMSA 1978. "

4 Section 5. Section 9-7-6.1 NMSA 1978 (being Laws 1999,
5 Chapter 270, Section 1) is amended to read:

6 "9-7-6.1. BEHAVIORAL HEALTH SERVICES--POWERS AND DUTIES
7 OF THE DEPARTMENT OF HEALTH.--Subject to appropriation, the
8 department [~~of health~~] shall:

9 A. contract for behavioral health treatment and
10 support services, including mental health, alcoholism and other
11 substance abuse services;

12 B. establish standards for the delivery of
13 behavioral health services, including quality management and
14 improvement, performance measures, accessibility and
15 availability of services, utilization management, credentialing
16 and recredentialing, rights and responsibilities of providers,
17 preventive behavioral health services, clinical treatment and
18 evaluation and the documentation and confidentiality of client
19 records;

20 C. ensure that all behavioral health services,
21 including mental health and substance abuse services, provided,
22 contracted for or approved are in compliance with the
23 requirements of Section 9-7-6.4 NMSA 1978;

24 D. assume responsibility for and implement adult
25 mental health and substance abuse services in the state

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1 coordinating with the human services department and the
2 children, youth and families department;

3 [C-] E. establish criteria for determining
4 individual eligibility for behavioral health services; and

5 [D-] F. maintain a management information system in
6 accordance with standards for reporting clinical and fiscal
7 information. "

8 Section 6. Section 9-7-6.2 NMSA 1978 (being Laws 1999,
9 Chapter 270, Section 2) is amended to read:

10 "9-7-6.2. CONTRACT ELIGIBILITY. -- Subject to the
11 provisions of Section 9-7-6.4 NMSA 1978, the department [~~of~~
12 ~~health~~] may enter into contracts for behavioral health services
13 with municipalities, counties, state institutions of higher
14 education, tribal or pueblo governments or organizations,
15 regional provider service networks or private nonprofit or for-
16 profit corporations authorized to do business in New Mexico. "

17 Section 7. A new section of the Department of Health Act,
18 Section 9-7-6.4 NMSA 1978, is enacted to read:

19 "9-7-6.4. [NEW MATERIAL] INTERAGENCY BEHAVIORAL HEALTH
20 PURCHASING COLLABORATIVE. --

21 A. There is created the "interagency behavioral
22 health purchasing collaborative", consisting of the secretaries
23 of human services, health, corrections, children, youth and
24 families, finance and administration, labor, public education
25 and transportation; the directors of the state agency on aging,

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1 the administrative office of the courts, the New Mexico office
2 of Indian affairs, the New Mexico mortgage finance authority,
3 the governor's committee on concerns of the handicapped, the
4 developmental disabilities planning council, the vocational
5 rehabilitation division of the public education department and
6 the New Mexico health policy commission; and the governor's
7 health policy coordinator, or their designees. The
8 collaborative shall be chaired by the secretary of human
9 services with the respective secretaries of health and
10 children, youth and families alternating annually as co-chairs.

11 B. The collaborative shall meet regularly and at
12 the call of either co-chair and shall:

13 (1) identify behavioral health needs
14 statewide, with an emphasis on that hiatus between needs and
15 services set forth in the department of health's gap analysis
16 and in on-going needs assessments, and develop a master plan
17 for statewide delivery of services;

18 (2) inventory all expenditures for behavioral
19 health, including mental health and substance abuse;

20 (3) plan, design and direct a statewide
21 behavioral health system, ensuring both availability of
22 services and efficient use of all behavioral health funding,
23 taking into consideration funding appropriated to specific
24 affected departments; and

25 (4) contract for operation of one or more

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1 behavioral health entities to ensure availability of services
2 throughout the state.

3 C. The plan for delivery of behavioral health
4 services shall include specific service plans to address the
5 needs of infants, children, adolescents, adults and seniors as
6 well as to address workforce development and retention and
7 quality improvement issues. The plan shall be revised every
8 two years and shall be adopted by the department of health as
9 part of the statewide health plan.

10 D. The plan shall take the following principles
11 into consideration, to the extent practicable and within
12 available resources:

13 (1) services should be individually centered
14 and family focused based on principles of individual capacity
15 for recovery and resiliency;

16 (2) services should be delivered in a
17 culturally responsive manner in a home or community-based
18 setting, where possible;

19 (3) services should be delivered in the least
20 restrictive and most appropriate manner;

21 (4) individualized service planning and case
22 management should take into consideration individual and family
23 circumstances, abilities and strengths and be accomplished in
24 consultation with appropriate family, caregivers and other
25 persons critical to the individual's life and well-being;

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1 (5) services should be coordinated,
2 accessible, accountable and of high quality;

3 (6) services should be directed by the
4 individual or family served to the extent possible;

5 (7) services may be consumer or family
6 provided, as defined by the collaborative; and

7 (8) services should include behavioral health
8 promotion, prevention, early intervention, treatment and
9 community support.

10 E. The collaborative shall seek and consider
11 suggestions of Native American representatives from Indian
12 nations, tribes, pueblos and the urban Indian population,
13 located wholly or partially within New Mexico, in the
14 development of the plan for delivery of behavioral health
15 services. "

16 Section 8. Section 9-8-6 NMSA 1978 (being Laws 1977,
17 Chapter 252, Section 7, as amended) is amended to read:

18 "9-8-6. SECRETARY--DUTIES AND GENERAL POWERS. --

19 A. The secretary is responsible to the governor for
20 the operation of the department. It is his duty to manage all
21 operations of the department and to administer and enforce the
22 laws with which he or the department is charged.

23 B. To perform his duties, the secretary has every
24 power expressly enumerated in the laws, whether granted to the
25 secretary or the department or any division of the department,

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1 except where authority conferred upon any division is
2 explicitly exempted from the secretary's authority by statute.

3 In accordance with these provisions, the secretary shall:

4 (1) except as otherwise provided in the Human
5 Services Department Act, exercise general supervisory and
6 appointing authority over all department employees, subject to
7 any applicable personnel laws and regulations;

8 (2) delegate authority to subordinates as he
9 deems necessary and appropriate, clearly delineating such
10 delegated authority and the limitations thereto;

11 (3) organize the department into those
12 organizational units he deems will enable it to function most
13 efficiently, subject to any provisions of law requiring or
14 establishing specific organizational units;

15 (4) within the limitations of available
16 appropriations and applicable laws, employ and fix the
17 compensation of those persons necessary to discharge his
18 duties;

19 (5) take administrative action by issuing
20 orders and instructions, not inconsistent with the law, to
21 assure implementation of and compliance with the provisions of
22 law for whose administration or execution he is responsible and
23 to enforce those orders and instructions by appropriate
24 administrative action in the courts;

25 (6) conduct research and studies that will

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1 improve the operations of the department and the provision of
2 services to the citizens of the state;

3 (7) provide courses of instruction and
4 practical training for employees of the department and other
5 persons involved in the administration of programs with the
6 objective of improving the operations and efficiency of
7 administration;

8 (8) prepare an annual budget of the
9 department;

10 (9) provide cooperation, at the request of
11 heads of administratively attached agencies, in order to:

12 (a) minimize or eliminate duplication of
13 services and jurisdictional conflicts;

14 (b) coordinate activities and resolve
15 problems of mutual concern; and

16 (c) resolve by agreement the manner and
17 extent to which the department shall provide budgeting,
18 record-keeping and related clerical assistance to
19 administratively attached agencies;

20 (10) appoint, with the governor's consent, a
21 "director" for each division. These appointed positions are
22 exempt from the provisions of the Personnel Act. Persons
23 appointed to these positions shall serve at the pleasure of the
24 secretary, except as provided in Section 9-8-9 NMSA 1978;

25 (11) give bond in the penal sum of twenty-five

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1 thousand dollars (\$25,000) and require directors to each give
2 bond in the penal sum of ten thousand dollars (\$10,000)
3 conditioned upon the faithful performance of duties as provided
4 in the Surety Bond Act. The department shall pay the costs of
5 these bonds; and

6 (12) require performance bonds of such
7 department employees and officers as he deems necessary as
8 provided in the Surety Bond Act. The department shall pay the
9 costs of these bonds.

10 C. The secretary may apply for and receive, with
11 the governor's approval, in the name of the department, any
12 public or private funds, including [~~but not limited to~~] United
13 States government funds, available to the department to carry
14 out its programs, duties or services.

15 D. Where functions of departments overlap or a
16 function assigned to one department could better be performed
17 by another department, the secretary may recommend appropriate
18 legislation to the next session of the legislature for its
19 approval.

20 E. The secretary may make and adopt such reasonable
21 and procedural rules and regulations as may be necessary to
22 carry out the duties of the department and its divisions. No
23 rule or regulation promulgated by the director of any division
24 in carrying out the functions and duties of the division shall
25 be effective until approved by the secretary unless otherwise

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1 provided by statute. Unless otherwise provided by statute, no
2 regulation affecting any person or agency outside the
3 department shall be adopted, amended or repealed without a
4 public hearing on the proposed action before the secretary or a
5 hearing officer designated by him. The public hearing shall be
6 held in Santa Fe unless otherwise permitted by statute. Notice
7 of the subject matter of the regulation, the action proposed to
8 be taken, the time and place of the hearing, the manner in
9 which interested persons may present their views and the method
10 by which copies of the proposed regulation, proposed amendment
11 or repeal of an existing regulation may be obtained shall be
12 published once at least thirty days prior to the hearing date
13 in a newspaper of general circulation and mailed at least
14 thirty days prior to the hearing date to all persons who have
15 made a written request for advance notice of hearing.

16 F. In the event the secretary anticipates that
17 adoption, amendment or repeal of a rule or regulation will be
18 required by a cancellation, reduction or suspension of federal
19 funds or order by a court of competent jurisdiction:

20 (1) if the secretary is notified by
21 appropriate federal authorities at least sixty days prior to
22 the effective date of such cancellation, reduction or
23 termination of federal funds, the department is required to
24 promulgate regulations through the public hearing process to be
25 effective on the date mandated by the appropriate federal

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1 authority; or

2 (2) if the secretary is notified by
3 appropriate federal authorities or court less than sixty days
4 prior to the effective date of such cancellation, reduction or
5 suspension of federal funds or court order, the department is
6 authorized without a public hearing to promulgate interim rules
7 or regulations effective for a period not to exceed ninety
8 days. [~~Such~~] Interim regulations shall not be promulgated
9 without first providing a written notice twenty days in advance
10 to providers of medical or behavioral health services and
11 beneficiaries of department programs. At the time of the
12 promulgation of the interim rules or regulations, the
13 department shall give notice of the public hearing on the final
14 rules or regulations in accordance with Subsection E of this
15 section.

16 G. If the secretary certifies to the secretary of
17 finance and administration and gives contemporaneous notice of
18 such certification through the human services register that the
19 department has insufficient state funds to operate any of the
20 programs it administers and that reductions in services or
21 benefit levels are necessary, the secretary may engage in
22 interim rulemaking. Notwithstanding any provision to the
23 contrary in the State Rules Act, interim rulemaking shall be
24 conducted pursuant to Subsection E of this section, except:

25 (1) the period of notice of public hearing

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1 shall be fifteen days;

2 (2) the department shall also send individual
3 notices of the interim rulemaking and of the public hearing to
4 affected providers and beneficiaries;

5 (3) rules and regulations promulgated ~~[under]~~
6 pursuant to the provisions of this subsection shall be in
7 effect not less than five days after the public hearing;

8 (4) rules and regulations promulgated ~~[under]~~
9 pursuant to the provisions of this subsection shall not be in
10 effect for more than ninety days; and

11 (5) if final rules and regulations are
12 necessary to replace the interim rules and regulations, the
13 department shall give notice of intent to promulgate final
14 rules and regulations at the time of notice herein. The final
15 rules and regulations shall be promulgated not more than forty-
16 five days after the public hearing and filed in accordance with
17 the State Rules Act.

18 H. At the time of the promulgation of the interim
19 rules or regulations, the department shall give notice of the
20 public hearing on the final rules or regulations in accordance
21 with Subsection E of this section.

22 I. The secretary shall ensure that any behavioral
23 health services, including mental health and substance abuse
24 services, provided, contracted for or approved are in
25 compliance with the requirements of Section 9-7-6.4 NMSA 1978.

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1 ~~[H-]~~ J. All rules and regulations shall be filed in
2 accordance with the State Rules Act. "

3 Section 9. Section 22-2-6 NMSA 1978 (being Laws 1967,
4 Chapter 16, Section 9, as amended) is amended to read:

5 "22-2-6. DEPARTMENT--DUTIES. -- ~~[Subject to the policies of~~
6 ~~the state board and the supervision and direction of the state~~
7 ~~superintendent]~~ The department shall have the following
8 duties:

9 A. supervise all schools and school officials
10 coming under the jurisdiction of the ~~[state board]~~ department,
11 including taking over the control and management of a public
12 school or school district that has failed to meet requirements
13 of law or ~~[state board]~~ department rules or standards;

14 B. issue a state identification number for each
15 public school student for use in the accountability data
16 system;

17 C. advise boards of regents of state educational
18 institutions on matters concerning the Public School Code;

19 D. prescribe, print and distribute forms to carry
20 out the duties of the ~~[state board]~~ department pursuant to the
21 Public School Code;

22 E. annually, prior to December 1, prepare and
23 publish a report on public and private education in the state
24 and distribute the report to the governor and the legislature;

25 F. keep accurate records of all money received by

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1 the ~~[state superintendent or the]~~ department;

2 G. publish and distribute copies of the Public
3 School Code and rules promulgated by the ~~[state board]~~
4 department to local school boards in the state;

5 H. confer with local school boards and licensed
6 school employees on matters concerning education in the state;

7 I. prepare and distribute patriotic material to
8 schools in the state; ~~[and]~~

9 J. evaluate all educational programs in state
10 institutions under the authority of the secretary of health and
11 the secretary of children, youth and families; and

12 K. ensure that all behavioral health services,
13 including mental health and substance abuse services, provided,
14 contracted for or approved by the department are in compliance
15 with requirements of Section 9-7-6.4 NMSA 1978. "

16 Section 10. Section 22-14-8 NMSA 1978 (being Laws 1967,
17 Chapter 16, Section 197, as amended by Laws 1993, Chapter 226,
18 Section 31 and also by Laws 1993, Chapter 229, Section 2) is
19 amended to read:

20 "22-14-8. VOCATIONAL REHABILITATION DIVISION-- POWERS--
21 DUTIES. -- ~~[Subject to the policies of the state board]~~ The
22 vocational rehabilitation division of the public education
23 department shall:

24 A. provide vocational rehabilitation to qualified
25 individuals;

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1 B. ~~[act as the representative of the state board in~~
2 ~~administering]~~ administer any state plan or federal aid funds
3 relating to vocational rehabilitation;

4 C. cooperate and make agreements with public or
5 private agencies to establish or to maintain a vocational
6 rehabilitation program;

7 D. enter into reciprocal agreements with other
8 states to provide vocational rehabilitation;

9 E. accept gifts or grants to be used for vocational
10 rehabilitation;

11 F. ~~[adopt]~~ enforce regulations for the
12 administration of laws relating to vocational rehabilitation;
13 ~~[and]~~

14 G. conduct research and compile statistics relating
15 to vocational rehabilitation; and

16 H. ensure that behavioral health services,
17 including mental health and substance abuse services, provided,
18 contracted for or approved are in compliance with the
19 requirements of Section 9-7-6.4 NMSA 1978. "

20 Section 11. Section 28-4-6 NMSA 1978 (being Laws 1979,
21 Chapter 203, Section 3, as amended) is amended to read:

22 "28-4-6. AGENCY POWERS. --

23 A. The state agency on aging:

24 (1) may receive on behalf of the state any
25 gifts, donations or bequests from any source to be used in

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1 carrying out its duties; and

2 (2) is designated as the state agency for
3 handling all programs of the federal government related to the
4 aged, except those designated by law as the responsibility of
5 another state agency, and may enter into agreements and
6 contracts with agencies of the federal government for this
7 purpose.

8 B. The state agency on aging may adopt and
9 promulgate [~~such~~] reasonable rules [~~and regulations~~] as are
10 deemed necessary to carry out its duties. Unless otherwise
11 provided by law, no rule [~~or regulation~~] affecting any person
12 or agency outside the state agency on aging shall be adopted,
13 amended or repealed without a public hearing on the proposed
14 action before the director of the state agency on aging or a
15 hearing officer designated by him. The public hearing shall be
16 held in Santa Fe unless otherwise permitted by statute. Notice
17 of the subject matter of the rule [~~or regulation~~], the action
18 proposed to be taken, the time and place of the hearing, the
19 manner in which interested persons may present their views and
20 the method by which copies of the proposed rule [~~or regulation~~]
21 or proposed amendment or repeal of an existing rule [~~or~~
22 ~~regulation~~] may be obtained shall be published once at least
23 thirty days prior to the hearing in a newspaper of general
24 circulation and mailed at least thirty days prior to the
25 hearing date to all persons who have made a written request for

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1 advance notice of hearing. The director of the state agency on
2 aging shall also provide [~~such~~] notice to the director of each
3 senior citizen center no later than forty days prior to the
4 public hearing. All rules [~~and regulations~~] shall be filed in
5 accordance with the State Rules Act.

6 C. To ensure that the health and safety needs of
7 the state's aged population are being met, the state agency on
8 aging may conduct unannounced quality care evaluations of
9 health and long-term care facilities that provide services to
10 the aged, including the use of undercover patients or
11 employees. Any employee or contractor of the state agency on
12 aging who participates in such an evaluation shall be immune
13 from liability in any civil action related to the evaluation,
14 provided it is conducted in good faith. The purpose of this
15 subsection is to confirm and clarify the authority of the state
16 agency on aging to conduct quality care evaluations to protect
17 the interests of the state's aged population.

18 D. The agency shall ensure that any behavioral
19 health services, including mental health and substance abuse
20 services, provided, contracted for or approved are in
21 compliance with the requirements of Section 9-7-6.4 NMSA 1978. "

22 Section 12. Section 28-12-7 NMSA 1978 (being Laws 1955,
23 Chapter 162, Section 4, as amended) is amended to read:

24 "28-12-7. POWERS AND DUTIES OF COMMISSION. --

25 A. The commission [~~shall be~~] is the co-ordinating

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1 agency for intergovernmental programs concerning tribal
2 governments and the state [~~of New Mexico~~].

3 B. The commission shall investigate, study,
4 consider and act upon the entire subject of Indian conditions
5 and relations within the state [~~of New Mexico~~], including but
6 not restricted to problems of health, economy, education,
7 legislation and local, state and federal government. In
8 performing its functions, the commission shall provide an
9 opportunity for the presentation and exchange of ideas in
10 respect to Indian affairs of the state by all interested
11 persons.

12 C. The commission shall assist in setting the
13 policy [~~for~~] and shall act as the clearinghouse for all state
14 programs affecting the Indian people of New Mexico.

15 D. The commission, in order to ensure the purposes
16 of this section, may hold hearings, conduct meetings, make
17 investigations and confer with officials of local, state and
18 federal agencies in order to secure cooperation between the
19 local, state, federal and Indian tribal governments in the
20 promotion of the welfare of the Indian peoples.

21 E. The commission shall have the authority to
22 accept and receive gifts, funds, grants, bequests and devises
23 for use in furthering the purposes of the commission.

24 F. The commission may contract with public or
25 private bodies to provide services and facilities for promoting

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1 the welfare of the Indian peoples.

2 G. The commission shall appoint the executive
3 director or his designee to serve on the interagency behavioral
4 health purchasing collaborative and shall ensure that all
5 behavioral health services, including mental health and
6 substance abuse services, provided, contracted for or approved
7 by the commission are in compliance with the requirements of
8 Section 9-7-6.4 NMSA 1978."

9 Section 13. Section 34-9-3 NMSA 1978 (being Laws 1959,
10 Chapter 162, Section 3, as amended) is amended to read:

11 "34-9-3. DIRECTOR--DUTIES.--The director of the
12 administrative office of the courts shall, under the
13 supervision and direction of the supreme court:

14 A. supervise all matters relating to administration
15 of the courts;

16 B. examine fiscal matters and the state of the
17 dockets of the courts, secure information as to the courts'
18 need of assistance and prepare and transmit to the supreme
19 court statistical data and reports as to the business of the
20 courts;

21 C. submit to the supreme court and to the
22 legislature by January 30 of each year a report of the
23 activities of the administrative office of the courts and of
24 the state of business of the courts, including the statistical
25 data submitted to the supreme court pursuant to Subsection B of

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1 this section, and the director's recommendations. This report
2 is a public document;

3 D. deal with the problems of finance of those
4 courts supported by legislative appropriation and be concerned
5 with adequate but economical financing of each of these courts
6 and the equitable distribution of available funds among them.
7 For this purpose, the director shall receive, adjust and
8 approve proposed budgets submitted by these courts [~~for the~~
9 ~~fifty-eighth and subsequent fiscal years~~] prior to submission
10 of the budgets to the state budget division of the department
11 of finance and administration for inclusion in the executive
12 budget. The district courts of all counties within a judicial
13 district shall be included within a single budget. Budget
14 proposals shall be submitted by the courts at the time and in
15 the form prescribed by the director; [~~and~~]

16 E. perform other duties in aid of the
17 administration of justice and the administration and dispatch
18 of the business of the courts as directed by the supreme court.
19 The courts shall comply with all requests of the director for
20 information; and

21 F. ensure that any behavioral health services,
22 including mental health and substance abuse services, provided,
23 contracted for or approved by the office are in compliance with
24 the requirements of Section 9-7-6.4 NMSA 1978. "

25 Section 14. A new section of the Mortgage Finance

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1 Authority Act is enacted to read:

2 "[NEW MATERIAL] DUTIES-- BEHAVIORAL HEALTH. --The authority
3 shall:

4 A. appoint a representative to both the behavioral
5 health planning council and the interagency behavioral health
6 purchasing collaborative; and

7 B. ensure that any behavioral health services,
8 including mental health and substance abuse services, and any
9 housing provided for consumers of those services, that are
10 provided, contracted for or approved by the authority are in
11 compliance with requirements of Section 9-7-6.4 NMSA 1978. "

12 Section 15. Section 67-3-8 NMSA 1978 (being Laws 1967,
13 Chapter 226, Section 7, as amended) is amended to read:

14 "67-3-8. POWERS AND DUTIES OF SECRETARY. --The secretary
15 shall:

16 A. serve as the chief staff officer of the state
17 transportation commission and shall be responsible to the
18 commission for the operations and management of the work of the
19 department;

20 B. organize the department in such a manner as to
21 properly conduct the work of the department;

22 C. establish six highway construction districts
23 with the approval of the state transportation commission. The
24 secretary shall designate a district engineer in each
25 construction district to supervise and manage the operations of

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1 the district. The district engineer shall be a professional
2 engineer. The authority and responsibility for the actual
3 construction for all construction projects within the district
4 shall be delegated to the district engineer. District
5 engineers shall attend state transportation commission
6 meetings;

7 D. in accordance with the provisions of the
8 Personnel Act, employ such assistants and employees as may be
9 required for the efficient operation of the department, each of
10 whom shall possess all the qualifications that may be
11 prescribed for such position; provided that, notwithstanding
12 the provisions of the Personnel Act, no more than five division
13 directors shall be covered by and subject to the Personnel Act;
14 [~~and~~]

15 E. observe, administer and enforce the provisions
16 of law now existing or hereafter enacted that pertain to the
17 state highways, the state transportation commission or the
18 department; and

19 F. ensure that any behavioral health services,
20 including mental health and substance abuse services, provided,
21 contracted for or approved are in compliance with the
22 requirements of Section 9-7-6.4 NMSA 1978. "

23 Section 16. REPEAL. -- Section 24-1-26 NMSA 1978 (being
24 Laws 2003, Chapter 59, Section 1) is repealed.