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FISCAL IMPACT REPORT

SPONSOR Cervantes DATE TYPED 2/13/04 HB 98/aHJC

SHORT TITLE Interstate Compact on Communicable Diseases SB _____

ANALYST Dunbar

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
			NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Department of Health (DOH)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amends the bill as follows:

- ❑ Changes the definition of the term “patient” to a person who has voluntarily consented to detention and treatment or has been ordered by a court pursuant to the Public Health Act to be detained or treated. The previous definition defined the term “patient” as eligible as determined by the laws of the sending state.
- ❑ Inserts language that, in the process of providing medical records of the patient must comply with the Health Insurance Portability and Accountability Act or other applicable privacy laws.
- ❑ Increases the time for the patient to consent or object to the transfer to an institution in another state from 14 days to 23 days upon receiving the “notice of transfer”.
- ❑ Provides for an “evidentiary” hearing on an objection to a transfer.
- ❑ Inserts language that a patient who, in writing, objects to the transfer to an institution in another state is entitled to an attorney (retained by the patient or court appointed) upon the request for a court hearing.

Several of the above amendments increase “due process” protection of the patient.

Synopsis of Original Bill

House Bill 98 enacts the Interstate Compact on Threatening Communicable Diseases which would enable the State of New Mexico to enter into compacts with other states in order to provide access to specialized health care facilities not available in the state. The bill applies to New Mexicans infected with communicable diseases who pose a threat to the health and welfare of the community.

Significant Issues

A person with a communicable disease may not have the capacity to effectively manage a course of treatment without significant outside assistance. Currently, these individuals, under court order, are placed in a local detention center. These placements are, in most cases, inappropriate. Experience has demonstrated that sometimes the appropriate placement may be in a neighboring or home state for the individual involved. However, since these infected individuals are sometimes under court order and protection, effecting an appropriate transfer is time consuming and administratively awkward. HB98 would provide a clear and legally sufficient mechanism to accomplish this kind of appropriate interstate transfer to ensure the most effective treatment. HB98 would also serve a purpose in the event of bioterrorism, when there are multiple cases where individuals must be transported for care when the in-state resources are saturated.

FISCAL IMPLICATIONS

Managing non-compliant infectious patients is already a responsibility of the DOH. There are no specific fiscal implications to HB98; rather there would be efficiencies in managing these patients. The costs of transfer will still need to be absorbed from state and federal funds.

ADMINISTRATIVE IMPLICATIONS

The existence of this compact would improve DOH's administrative efficiency when handling these difficult individual cases. Through a declared emergency, the Governor could facilitate the interstate transfers of patients in response to a public health emergency.

OTHER SUBSTANTIVE ISSUES

Placements in detention facilities are often inappropriate because these facilities usually lack the training and infrastructure necessary for the delivery of healthcare and other services needed to assure satisfactory outcomes. Assuring the safety of individuals, detained for something other than criminal charges, is problematic and may place the state at risk for litigation.

HB98 would make it easier for the DOH to enter into inter-state compacts that allows for transfer of patients across state lines so that New Mexicans could enter specialized and specialty care facilities where the standard of care includes such things as: negative flow pressurized rooms, provision of medications, supervised therapy according to national standards of care, safety precautions and security. In addition, patients at these facilities may also have opportunities to take part in vocational, occupational, and behavioral health rehabilitation programs. This level of care is not always available in New Mexico.

During a public health emergency due to bioterrorism, DOH has the potential to rely on a pre-

established compact for inter-state transfer of patients who require specialized care when the resources in New Mexico are depleted or unavailable. It would also allow for DOH to assist other states that have a need for assistance in such events. Patient population and transfer patterns do not recognize state boundaries (e.g., Las Cruces/El Paso; Eastern New Mexico/Western Texas). DOH experience with the trauma system indicates that the transfer across state lines is routine.

BD/prr:dm:yr