

1 A MEMORIAL

2 REQUESTING THAT THE SECRETARY OF HUMAN SERVICES AND THE
3 SECRETARY OF HEALTH WORK WITH THE NEW MEXICO HEALTH CARE
4 ASSOCIATION AND INDIVIDUAL LONG-TERM CARE NURSING FACILITIES
5 TO ADDRESS THE GRAVE CHALLENGES THAT LONG-TERM CARE NURSING
6 FACILITIES ARE FACING WITH REGARD TO REIMBURSEMENT RATES AND
7 THE REGULATORY ENVIRONMENT.

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9 WHEREAS, long-term care nursing facilities that provide
10 essential care to some of New Mexico's most vulnerable
11 residents are facing a budget crisis statewide; and

12 WHEREAS, medicaid daily reimbursement rates for long-
13 term care nursing facilities have been lower than the cost of
14 providing that care for many years and that discrepancy has
15 been steadily increasing; and

16 WHEREAS, the latest independent study shows that New
17 Mexico facilities receive only eighty-nine and four-tenths
18 percent of the cost it takes to care for patients receiving
19 long-term care; and

20 WHEREAS, many nursing facility residents are able to
21 receive care in these long-term care nursing facilities
22 because they are recipients of medicaid; and

23 WHEREAS, medicaid is the largest payer source for long-
24 term care nursing facilities; and

25 WHEREAS, the patient population of many rural long-term

1 care nursing facilities is composed of over ninety-five
2 percent medicaid recipients, which makes it virtually
3 impossible for other funding sources to make up for
4 medicaid's reimbursement shortfall; and

5 WHEREAS, a funding shortfall on the average of twenty-
6 two dollars forty-six cents (\$22.46) per patient per day for
7 a one-hundred-bed facility equates to a loss of about eight
8 hundred twenty thousand dollars (\$820,000) for that long-term
9 care nursing facility per year; and

10 WHEREAS, long-term care nursing facilities also face
11 great frustration with the eligibility and claims process for
12 medicaid and have expressed huge concerns with cash flow
13 shortfalls due to eligibility and claims processing delays;
14 and

15 WHEREAS, long-term care nursing facilities are one of
16 the most regulated industries in the United States, being
17 much more heavily regulated than any other health care
18 providers; and

19 WHEREAS, intense regulatory oversight causes long-term
20 care nursing facility costs to be significantly higher than
21 necessary in order to meet the very onerous state and federal
22 requirements; and

23 WHEREAS, since October 2014, New Mexico long-term care
24 nursing facilities' regulatory environment has changed
25 drastically; and

1 WHEREAS, in 2014, the department of health's issuance of
2 immediate jeopardy citations, whereby the department
3 characterizes conditions at a long-term care nursing facility
4 as presenting an immediate jeopardy to residents, rose one
5 hundred fifty percent from the number of immediate jeopardy
6 citations issued during the previous year; and

7 WHEREAS, in 2016, the rate of immediate jeopardy
8 citations issued was fourteen and seven-tenths percent
9 statewide, which represents the highest rate of immediate
10 jeopardy citations in the United States; and

11 WHEREAS, the percentage of long-term care nursing
12 facilities with immediate jeopardy citations in 2016 in
13 neighboring states, all which operate under the same federal
14 regulations as New Mexico, were significantly lower: in
15 Colorado, two and three-tenths percent; in Arizona, six and
16 eight-tenths percent; and in Texas, two and three-tenths
17 percent; and

18 WHEREAS, in 2016, the federal centers for medicare and
19 medicaid services issued a directive that doubled all
20 sanctions on long-term care nursing facilities; and

21 WHEREAS, fines levied upon long-term care nursing
22 facilities in New Mexico were at six hundred forty-eight
23 thousand dollars (\$648,000) before the sanctions were
24 doubled; and

25 WHEREAS, many long-term care nursing facilities face

1 closure by the department of health for a regulatory climate
2 that has become extremely overzealous and that does not
3 compare with other health care providers such as hospitals,
4 physicians and clinics;

5 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
6 REPRESENTATIVES OF THE STATE OF NEW MEXICO that the secretary
7 of human services and the secretary of health be requested to
8 work with the New Mexico health care association and
9 individual long-term care nursing facilities to address the
10 grave challenges that long-term care nursing facilities are
11 facing with regard to reimbursement rates and the regulatory
12 environment to devise solutions to ensure the solvency of New
13 Mexico's long-term care nursing facilities and thereby ensure
14 the availability of the essential care that they provide to
15 vulnerable New Mexicans; and

16 BE IT FURTHER RESOLVED that the secretary of human
17 services and the secretary of health be requested to seek
18 federal authority and assistance to better fund and create a
19 friendlier regulatory climate in which these long-term care
20 nursing facilities may operate; and

21 BE IT FURTHER RESOLVED that the secretary of human
22 services and the secretary of health be requested to report on
23 the progress of their respective departments' efforts to
24 better fund and create a friendlier regulatory climate in
25 which long-term care nursing facilities may operate statewide

1 to the legislative health and human services committee and the
2 legislative finance committee by November 1, 2017; and

3 BE IT FURTHER RESOLVED that copies of this memorial be
4 transmitted to the governor, the secretary of human services,
5 the secretary of health, the interim legislative health and
6 human services committee and the director of the legislative
7 finance committee.

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