

FIFTY-SEVENTH LEGISLATURE
FIRST SESSION

PROPOSED AMENDMENT DIRECTED TO A COMMITTEE

February 6, 2025

Madam Chair:

I propose to the HOUSE HEALTH AND HUMAN SERVICES COMMITTEE the following amendments to

HOUSE BILL 138

1. On page 1, line 17, strike "Chapter 24 NMSA 1978" and insert in lieu thereof "the Health Care Code".
2. On page 1, line 21, strike "Chapter 24 NMSA 1978" and insert in lieu thereof "the Health Care Code".
3. On page 4, line 6, strike "Chapter 24 NMSA 1978" and insert in lieu thereof "the Health Care Code".
4. On page 4, lines 10 and 11, strike "Public Health Act" and insert in lieu thereof "Health Care Code".
5. On page 7, line 8, strike "Chapter 24 NMSA 1978" and insert in lieu thereof "the Health Care Code".
6. On page 7, lines 12 and 13, strike "Public Health Act" and insert in lieu thereof "Health Care Code".
7. On page 10, line 22, strike "Chapter 24 NMSA 1978" and insert in lieu thereof "the Health Care Code".
8. On page 11, lines 1 and 2, strike "Public Health Act" and insert in lieu thereof "Health Care Code".

9. On page 13, line 20, strike "Chapter 24 NMSA 1978" and insert in lieu thereof "the Health Care Code".
10. On page 13, line 25, strike "Public Health Act" and insert in lieu thereof "Health Care Code".
11. On page 14, line 1, strike "department" and insert in lieu thereof "authority".
12. On page 19, lines 1 and 2, strike "Public Health Act" and insert in lieu thereof "Health Care Code".
13. On page 20, line 1, strike "Chapter 24 NMSA 1978" and insert in lieu thereof "the Health Care Code".
14. On page 20, line 7, strike "Public Health Act" and insert in lieu thereof "Health Care Code".
15. On page 20, line 8, strike "department" and insert in lieu thereof "authority".
16. On page 21, line 20, strike "Chapter 24 NMSA 1978" and insert in lieu thereof "the Health Care Code".
17. On page 21, line 25, strike "Public Health Act" and insert in lieu thereof "Health Care Code".
18. On page 22, line 1, strike "department" and insert in lieu thereof "authority".
19. On page 23, strike lines 9 through 25, and on page 24, strike lines 1 through 11 and insert in lieu thereof:

"SECTION 9. A new section of the Health Care Code is enacted to read:

"[NEW MATERIAL] HOSPITAL STAFFING PLANS--ENFORCEMENT.--

A. A hospital unit shall not deviate from any staffing plan more than six times during a rolling thirty-day period without being in violation of the staffing plan. The unit manager shall notify the relevant hospital staffing committee and the authority of

the deviation no later than ten days after each deviation. Each subsequent deviation during the thirty-day period shall constitute a separate violation.

B. The authority shall, no later than January 1, 2026, adopt rules that establish a process for investigating and remedying any violation of a hospital staffing plan. Such rules shall specify reporting requirements for deviations, consistent with this section, and allow for the acceptance, investigation and resolution of complaints from hospital staff, the exclusive representatives of hospital staff or members of the public.

C. If the authority determines, whether through a complaint process, hospital reporting or its own independent investigation, that a hospital has been in violation of a staffing plan or has failed to adopt a staffing plan in accordance with the Hospital Patient Safety Act the authority shall:

(1) issue a warning for the first violation in a four-year period;

(2) impose a civil penalty of one thousand seven hundred fifty dollars (\$1,750) for the second violation in a four-year period;

(3) impose a civil penalty of two thousand five hundred dollars (\$2,500) for the third violation in a four-year period; and

(4) impose a civil penalty of five thousand dollars (\$5,000) for the fourth and subsequent violations in a four-year period.

D. If the authority finds that a hospital has committed multiple violations of the Hospital Patient Safety Act that are of a similar nature, the authority shall require the hospital to submit a corrective action plan for the authority's approval. If a hospital does not follow the corrective plan of action approved by the authority, the hospital shall be fined fifty thousand dollars (\$50,000) per each thirty-day period until the hospital complies.

E. The requirements of this section or any rules adopted

pursuant to it may be enforced by a civil action brought by any interested party for injunctive relief. In the event that such action is partially successful, the court may award the prevailing party litigation costs and reasonable attorney fees.

F. A hospital shall not be required to follow any staffing plan developed and approved by a staffing committee in the event of:

- (1) a national or state emergency requiring the implementation of a facility disaster plan;
 - (2) sudden and unforeseen adverse weather conditions;
- or
- (3) an infectious disease epidemic suffered by hospital staff.

G. In the event of an emergency circumstance not described in Subsection F of this section, either co-chair of any staffing committee may specify a time and place for the committee to meet to review and consider modifications to the staffing plan while the emergency is in effect.

H. The authority may grant waivers to rural or critical access hospitals for portions of the Hospital Patient Safety Act if the hospital is able to document reasonable efforts to obtain adequate staff."".

Respectfully submitted,
