

AN ACT

RELATING TO HEALTH; PROVIDING FOR DEVELOPMENT AND IMPLEMENTATION OF A PLAN FOR THE GROWTH OF INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED; DECLARING AN EMERGENCY.

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

Section 1. INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED-- LICENSURE MORATORIUM --

A. The department of health shall not issue a license to any new intermediate care facility for the mentally retarded, and the department shall not issue a license for an increase beyond the intermediate care bed capacity for the mentally retarded that existed on January 1, 1998. No intermediate care facility shall apply for a license except as provided in Subsection B of this section.

B. Except as provided in Subsection C of this section for transfers, the department may accept applications for and issue licenses to intermediate care facilities for the mentally retarded on and after the earliest of the following dates:

(1) July 1, 1999, provided that the secretary of human services certifies to the secretary of health that the human services department and the department of health have approved and presented to the first session

of the forty-fourth legislature a plan to control the growth of intermediate care facilities for the mentally retarded and to establish the future role of intermediate care facilities for the mentally retarded in the developmental disabilities service system; or

(2) the date the secretary of health certifies to the department of finance and administration that an emergency exists that threatens the health and safety of persons with developmental disabilities, but licenses issued pursuant to this paragraph shall not exceed the total statewide bed capacity in intermediate care facilities for the mentally retarded that existed on January 1, 1998.

C. Upon application, the department shall license no more than eighty beds beyond the total of licensed and operating intermediate care facilities for the mentally retarded as of January 1, 1998 to currently licensed intermediate care facilities for the mentally retarded for the purposes of this subsection, provided that:

(1) the facilities are licensed to provide sufficient beds and care for no more than four mentally retarded persons per residence;

(2) the facilities include fiscal, geographic, service and access criteria pursuant to rules adopted by the department of health necessary to provide for

the needs of persons in need of those facilities;

(3) the facilities are in accordance with the freedom of choice provisions of Title 19 of the Social Security Act;

(4) the facilities are located no closer than one hundred fifty feet from an existing intermediate care facility for the mentally retarded, home for persons with developmental disabilities or a nursing home; and

(5) eight of the eighty beds shall be exempt from the provisions of Paragraphs (1) through (4) of this subsection and are transferred to the Las Vegas medical center by the department of health for the purposes of programs for persons with developmental disabilities.

D. As used in this section, "intermediate care facility for the mentally retarded" means any intermediate care facility eligible for certification as an intermediate care facility for the mentally retarded.

Section 2. DELAYED REPEAL. --Section 1 of this act is repealed on July 1, 2000.

Section 3. EMERGENCY. --It is necessary for the public peace, health and safety that this act take effect immediately.

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