STATE OF NEW MEXICO

OFFICE OF SUPERINTENDENT OF INSURANCE

SUPERINTENDENT OF INSURANCE

Alice T. Kane

DEPUTY SUPERINTENDENT

Colin Baillio

The New Mexico Office of Superintendent of Insurance is issuing this announcement following the Roundtable Meeting- Implementation of Senate Bill 15, held April 17, 2024 - 10:00AM.

The New Mexico Office of Superintendent of Insurance (OSI) held an in-person and virtual roundtable meeting on April 17, 2024, at 10:00a.m. to discuss the emergency rule that will implement the requirements of Senate Bill 15 passed in the 2024 legislative session.

The purpose of this roundtable meeting was to informally discuss the adoption of 13.2.12 NMAC. 13.2.12 NMAC will be implemented on an emergency basis pursuant to NMSA 1978, Section 14-4-5.6. The emergency rule will lay out the OSI procedures to carry out the requirements of Senate Bill 15, Health Care Consolidation Oversight. Pursuant to Section 14-4-5.6, the normal rulemaking procedures in the State Rules Act, NMSA 1978, Sections 14-4-1 *et seq*., do not apply to emergency rulemaking so Office of Superintendent of Insurance (OSI) is not required to allow for the submission of written or oral public comment, to conduct a public hearing, or to provide a concise explanatory statement for this emergency rule. In this meeting, the Superintendent was none-the-less interested in obtaining outside perspectives and comments regarding a draft emergency rule that will become effective on May 15, 2024. Additionally, pursuant to Section 14-4-5.6, the OSI will follow up with the adoption of a final rule that will follow the regular statutory requirements of the State Rules Act within 180 days.

To submit written comments, or if you have any questions, please send to the following email address:

OSI-Consolidation.Oversight@state.nm.us

Written comments will be accepted for consideration until: Thursday, April 18, 2024, at 5:00p.m. MDT.

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OFFICE OF SUPERINTENDENT OF INSURANCE

SUPERINTENDENT OF INSURANCE | **DEPUTY SUPERINTENDENT**

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AGENDA
ROUNDTABLE MEETING – IMPLEMENTATION OF SENATE BILL 15
APRIL 17, 2024 - 10:00 A.M.
4TH FLOOR HEARING ROOM – PERA BUILDING

A. Welcome & Introductions

B. Purpose of the Meeting

1. To present the text of the emergency rule 13.2.12 NMAC, Healthcare Consolidation Oversight.
2. To obtain outside perspectives and comments regarding the draft rule.
3. The Superintendent will conduct additional discussion sessions related to any new legislation that may be proposed in the 2025 legislative session. This meeting will only focus on the emergency rule and related matters.

C. Review of Publication Date and Effective Date of the Rule

1. The emergency rule will be published in the New Mexico Register on May 7, 2024 with the Effective Date of May 15, 2024.
2. The text of the emergency rule reflects how the Office of Superintendent of Insurance (OSI) will implement the requirements in Senate Bill 15, Health Care Consolidation Oversight Act effective on May 15, 2024.
3. The emergency rule is effective for 180 days after the effective date, so until November 12, 2024. (November 11, 2024 is the 180th day, but it is a state holiday.)
4. After the emergency rule becomes effective, the OSI will open a rulemaking pursuant to the State Rules Act to make this emergency rule final before November 12, 2024.
5. OSI confirmed with the State Compilation Commission:
   a. Senate Bill 15 will be codified at: Chapter 59A, as Article 63, of the New Mexico Statutes Annotated; and
   b. Article 63 will be published in the New Mexico Statutes Annotated on May 15, 2024.
6. All sections of Senate Bill 15 are subject to delayed repeal, for July 1, 2025, except for Section 8 to be codified as NMSA 1978, Section 59A-63-8, pursuant to Section 9 of Senate Bill 15 to be codified at NMSA 1978, Section 59A-63-9.
7. Section 8 of Senate Bill 15 codified as NMSA 1978, Section 59A-63-8, allows the Superintendent post-transaction review of any approved transactions for three years from the date the transaction is approved.

D. Justification for the Rule

Pursuant to NMSA 1978, Section 14-4-5.6 a rule promulgated upon an emergency basis must be based upon a "cause of an imminent peril to the public health, safety or welfare" to the citizens of New Mexico:

1. This emergency rule is adopted to create a review process that allows OSI to determine whether proposed transactions that materially change the control of a New Mexico hospital could negatively impact the availability, accessibility, affordability, and quantity of care for New Mexicans.
2. Health care mergers and acquisitions are growing in New Mexico and across the nation, evidence mounts that such transactions lead to higher prices for health care consumers, without clear quality improvements, and in some circumstances lead to a reduction in health care services.
3. Merged hospitals were more likely than independent hospitals to eliminate maternal/neonatal and surgical care in rural areas.
4. Rural hospitals experienced a significant reduction in on-site diagnostic imaging technologies, the availability of obstetric and primary care services, and outpatient nonemergency visits, as well as a significant increase in operating margins and may reduce access to services for patients in rural areas and quality of care could also be impacted by these types of transactions.
5. Effect upon Medicare patients, and general patient safety.
6. Administrative efficiencies can also potentially be realized when a smaller entity is acquired by a larger entity as sometimes a merger or acquisition is the only way for a healthcare entity to stay afloat.

E. Important Aspects the Rule Draft

1. The email address and any associated forms will be on the OSI website under a tab called: *Health Care Consolidation Oversight*, the rule references "an email on the OSI website." The email address is:
   OSI-Consolidation.Oversight@state.nm.us
2. The language in the emergency rule tracks the language and requirements in Senate Bill 15.
3. Most of the definitions in the rule are taken directly from Senate Bill 15, Section 2, new definitions added to Section 13.2.12.7 NMAC include:
   a. Subsection L, notice
   b. Subsection N, office of general counsel
   c. Subsection Q, proposed transaction
   d. Subsection R, significantly modified
   e. Subsection T, toll or tolled
4. Where the Act gave the OSI or Superintendent responsibility for implementing requirements for confidentiality, the OSI created the following in the rule:
   a. A new email address has been created specifically for communications received related to proposed transactions.
   b. Pursuant to the Superintendent's authority in Subsection B of Section 59A-2-12:
      i. Upon receipt of a written request for a pre-notice conference or a notice of a proposed transaction, the Superintendent will open a confidential case in the office's docketing system;
      ii. The Superintendent will open a case in a file hosting system (like Drop Box or SharePoint) to receive documents.

iii. Any communication related to a proposed transaction shall be deemed as confidential.
iv. Cases opened as confidential will be closed as confidential.

c. All documents received by OSI in the course of the review are confidential pursuant to Section 4 of Senate Bill 15.

5. Any Inspection of Public Records requests will be reviewed and handled by OSI on a case-by-case basis pursuant to the Inspection of Public Records Act, NMSA 1978, Sections 14-2-1 *et seq.*
6. All written communications required by 13.2.12 NMAC must be sent to the following email address:
   OSI-Consolidation.Oversight@state.nm.us

F. Written Comments, Emergency Rule

1. As stated in the notice for this meeting, the OSI will receive and review any written comments related to this emergency rule at the following OSI email address:
   OSI-Consolidation.Oversight@state.nm.us
2. The OSI may consider and adopt into the rule any comments received but does not guarantee it will do so. A formal rulemaking including a 30-day comment period will be held later in the year.
3. If you would like to be on the notice for this rulemaking please add your name to the OSI newsletter at:
   https://newsletter.osi.state.nm.us/
   Please check the "Rulemaking and Ratemaking" Box

FOLLOWING THIS MEETING, A LINK TO THE EMAIL ADDRESS ABOVE WILL BE AVAILABLE ON THE OSI ANNOUNCEMENT NEWS PAGE.

THANK YOU

TITLE 13 INSURANCE
CHAPTER 2 INSURANCE COMPANY LICENSING AND OPERATION
PART 12 HEALTH CARE CONSOLIDATION OVERSIGHT

13.2.12.1 ISSUING AGENCY: Office of Superintendent of Insurance
[13.2.12.1 NMAC – N/E, 05/15/2024]

13.2.12.2 SCOPE: This rule applies to any proposed transactions that involve a New Mexico hospital as regulated by the Health Care Consolidation Oversight Act, Chapter 59A, Article 63 NMSA 1978.
[13.2.12.2 NMAC – N/E, 05/15/2024]

13.2.12.3 STATUTORY AUTHORITY: Authority for this rule derives from the superintendent's powers under Sections 59A-2-9 and from 59A-63-1 *et seq*. NMSA 1978, the Health Care Consolidation Oversight Act.
[13.2.12.3 NMAC – N/E, 05/15/2024]

13.2.12.4 DURATION: This emergency rule expires 180 days from the effective date unless a permanent rule is adopted before that time.
[13.2.12.4 NMAC – N/E, 05/15/2024]

13.2.12.5 EFFECTIVE DATE: May 15, 2024 unless a later date is cited at the end of a section.
[13.2.12.5 NMAC – N, 05/15/2024]

13.2.12.6 OBJECTIVE: The purpose of this rule is to establish the standards for meeting the requirements of the health care consolidation oversight act and to provide details related to the superintendent's oversight of proposed transactions.
[13.2.12.6 NMAC – N/E, 05/15/2024]

13.2.12.7 DEFINITIONS: For the purpose of this rule, the following terms have the following meanings:

A. **"acquisition"** has the same meaning as defined in Subsection A of Section 59A-63-2 NMSA 1978;

B. **"act"** means the health care consolidation oversight act, Chapter 59A, Article 63 NMSA 1978;

C. **"affiliation"** has the same meaning as defined in Subsection B of Section 59A-63-2 NMSA 1978;

D. **"authority"** has the same meaning as defined in Subsection C of Section 59A-63-2 NMSA 1978;

E. **"control"** has the same meaning as defined in Subsection D of Section 59A-63-2 NMSA 1978;

F. **"essential services"** has the same meaning as defined in Subsection E of Section 59A-63-2 NMSA 1978;

G. **"health care provider"** has the same meaning as defined in Subsection F of Section 59A-63-2 NMSA 1978;

H. **"health insurer"** has the same meaning as defined in Subsection G of Section 59A-63-2 NMSA 1978;

I. **"hospital"** has the same meaning as defined in Subsection H of Section 59A-63-2 NMSA 1978;

J. **"insurance holding company law"** means Chapter 59A, Article 37 NMSA 1078;

K. **"management services organization"** has the same meaning as defined in Subsection I of Section 59A-63-2 NMSA 1978;

L. **"notice"** means a notification to the superintendent of a proposed transaction on a form provided by the superintendent, and when completed provides all the information required by Subsection E of 59A-63-2 NMSA 1978;

M. **"office"** or **"OSI"** has the same meaning as defined in Subsection J of Section 59A-63-2 NMSA 1978;

N. **"office of general counsel"** means the office of general counsel of the office of superintendent of insurance;

O. **"party"** or **"parties"** has the same meaning as defined in Subsection K of Section 59A-63-2 NMSA 1978;

P. **"person"** has the same meaning as defined in Subsection L of Section 59A-63-2 NMSA 1978;

Q. **"proposed transaction"** means a transaction as defined in Subsection N of Section 59A-63-2 NMSA 1978, that is subject to the review of the superintendent under the act;

R. **"significantly modified"** means a material change, alteration, or amendment to the scope of the proposed transaction from that outlined in the initial notice, that is significant enough to affect the outcome of the superintendent's determination;

S. **"superintendent"** has the same meaning as defined in Subsection M of Section 59A-63-2 NMSA 1978;

T. **"toll"** or **"tolled"** means a suspension of the 120-day time period that begins when the notice of proposed transaction is deemed complete by the superintendent or designee; and

U. **"transaction"** has the same meaning as defined in Subsection N of Section 59A-63-2 NMSA 1978.

[13.2.12.7 NMAC – N/E, 05/15/2024]

13.2.12.8 APPLICABILITY, OVERSIGHT PROVISIONS AND PRESUMPTION OF CONTROL:

A. The oversight power of the office pursuant to the act applies to proposed transactions that involve a New Mexico hospital.

B. Being subject to the act does not preclude or negate any person regulated pursuant to the insurance hold company law.

C. Control is presumed to exist if a person, directly or indirectly, owns, controls, or holds fifteen percent or more of the power to vote or holds proxies representing fifteen percent or more of the voting securities of any other person.

D. The presumption may be rebutted by a showing in the manner provided by Section 59A-37-19 NMSA 1978 that control does not in fact exist.

[13.2.12.8 NMAC – N/E, 05/15/2024]

13.2.12.9 NOTICE OF PROPOSED TRANSACTION:

A. Parties to a proposed transaction may submit a written request to the office of general counsel via the email provided on the office's website, for a pre-notice conference to determine if they are required to file a notice or to discuss the potential extent of the review with the superintendent or designee.

B. At least one person that is a party to a proposed transaction shall submit to the office via the email provided on the office's website, a written notice of the proposed transaction on the notice of proposed transaction form provided by the superintendent.

C. The notice of the proposed transaction shall include:

(1) a list of the parties, the terms of the proposed transaction and copies of all transaction agreements between any of the parties;

(2) a statement describing the goals of the proposed transaction and whether and how the proposed transaction affects health care services in New Mexico;

(3) the geographic service area of any hospital affected by the proposed transaction;

(4) a description of the groups or individuals likely to be affected by the transaction; and

(5) a summary of the health care services currently provided by any of the parties and any health care services that will be added, reduced or eliminated, including an explanation of why any services will be reduced or eliminated in the service area in which they are currently provided.

D. If a party to the proposed transaction is a health insurer, the notice shall be submitted as an addendum to any filing required by the insurance holding company law, Sections 59A-37-4 through 59A-37-10 NMSA 1978.

[13.2.12.9 NMAC – N/E, 05/15/2024]

13.2.12.10 PAYMENT OF COSTS, REQUIREMENTS FOR CONSULTATION AND EXPERTS:

A. The office shall consult with the authority about the potential effect of the proposed transaction and incorporate the authority's recommendations into the office's final determination.

B. The office may retain actuaries, accountants, attorneys, or other professionals who are qualified and have expertise in the type of transaction under review as necessary to assist the office in conducting its review of the proposed transaction.

C. The office shall notify parties before any costs are incurred when a transaction review requires the use of outside experts, including the estimated cost of the outside expert's services.

D. The parties shall pay the reasonable costs and expenses incurred by the office in the performance of the office's or authority's duties pursuant to the act for costs associated with the office's contracts with experts, unless determined otherwise by the superintendent.

E. The parties shall not effectuate a transaction without the written approval of the superintendent. The submitting party shall notify the office of general counsel in writing via the email address located on the office's website, when the transaction has been effectuated.
[13.2.12.10 NMAC – N/E, 05/15/2024]

13.2.12.11 REVIEW OF NOTICE AND TOLLING:

A. Upon receipt of a complete notice of a proposed transaction:

(1) the office shall determine if the transaction is urgently necessary to maintain the solvency of a hospital or if there is an emergency that threatens the continued provision of immediate health care services;

(2) in such circumstances, the office may agree to an immediate approval of a transaction with or without conditions;

(3) the office shall inform the authority of the filing of the notice of proposed transaction.

B. Entry into a binding agreement before a transaction is effectuated is not a violation of the act if the transaction remains subject to regulatory review and approval.

C. A notice of a proposed transaction shall be deemed completed by the office on the date when all the information required by the act or requested by the office is submitted by all parties to the transaction, as applicable.

D. The superintendent or designee shall inform the parties and the authority in writing of the date when the notice of a proposed transaction is complete and the 120-day time period for review by the superintendent of designee begins.

E. If the scope of the proposed transaction is determined by the superintendent or designee to be significantly modified from that outlined in the initial notice, the 120-day time period set out in the act shall be restarted by the office.

F. The parties must notify the superintendent in writing via the email provided on the office's website, if the scope of the proposed transaction is significantly modified.

G. The time periods shall be tolled during any time in which the office has requested and is awaiting further information necessary to complete a review, from the parties to a transaction.
[13.2.12.11 NMAC – N/E, 05/15/2024]

13.2.12.12 REVIEW OF PROPOSED TRANSACTION BY THE OFFICE:

A. Within 120-days of receiving a completed notice of a proposed transaction, the office shall complete a review, confer with the authority and either:

(1) approve the proposed transaction;

(2) approve the proposed transaction with conditions; or

(3) disapprove the proposed transaction.

B. In conducting a review of a proposed transaction, the office may consider the likely effect in New Mexico of the proposed transaction on:

(1) the potential reduction or elimination in access to essential services;

(2) the availability, accessibility and quality of health care services to any community affected by the transaction;

(3) the health care market share of a party and whether the transaction may foreclose competitors of a party from a segment of the market or otherwise increase barriers to entry in a health care market;

(4) changes in practice restrictions for licensed health care providers who work at the hospital;

(5) patient costs, including premiums and out-of-pocket costs;

(6) health care provider networks; and

(7) the potential for the proposed transaction to affect health outcomes for New Mexico residents.

C. The review period may be extended if the parties agree to an extension.
[13.2.12.12 NMAC – N/E, 05/15/2024]

12.2.13.13 NOTIFICATION OF DETERMINATION:

A. The superintendent shall notify the submitting party in writing of the office's determination and the reasons for the determination.

B. The office shall approve the proposed transaction after the comprehensive review if the office determines:

(1) the parties to the proposed transaction have demonstrated that the transaction will benefit the public by:

(a) reducing the growth in patient costs, including premiums and out-of-pocket costs; or

(b) maintaining or increasing access to services, especially in medically underserved areas;

(2) the proposed transaction will improve health outcomes for New Mexico residents; and

(3) there is no substantial likelihood of:

(a) a significant reduction in the availability, accessibility, affordability or quality of care for patients and consumers of the health care services; or

(b) anti-competitive effects from the proposed transaction that outweigh the benefits of the transaction.

[13.2.12.13 NMAC – N/E, 05/15/2024]

13.2.12.14 CONFIDENTIALITY:

A. All documents, materials or other information in the possession or control of the office that are obtained by or disclosed to the office or the authority in the course of a review under the act, are confidential.

B. Pursuant to Subsection B of Section 59A-2-12 NMSA 1978:

(1) upon receipt of a written request for a pre-notice conference or a notice of a proposed transaction, the superintendent shall open a confidential case in the office's docketing system to file any and all documents, materials, or other information pertaining to the notice of proposed transaction received by the office;

(2) the superintendent shall open a case in a file hosting service of the parties to produce and share documents in a secure trusted platform for the duration of the review of the proposed transaction, through the post-transaction reporting period;

(3) any written communication related to a proposed transaction shall be deemed confidential by the superintendent; and

(4) a case opened as confidential pursuant to the act, will be closed as confidential by the superintendent after the reporting period has concluded.

[13.2.12.14 NMAC – N/E, 05/15/2024]

13.2.12.15 POST-TRANSACTION REPORTING AND OVERSIGHT:

A. The person that acquired control over the hospital through an approved or conditionally approved transaction shall submit annual reports for three years from the date the transaction is approved, to the office and to the authority on a form provided by the office and via the email provided on the office's website.

B. The report shall:

(1) describe compliance with conditions placed on the transaction, if any;

(2) describe any growth, any decline, and other changes in services provided by the person; and

(3) provide analyses of cost trends and cost growth trends of the hospital.

C. The requirements of this section are not affected by the delayed repeal in Section 59A-63-9 NMSA 1978.

[13.2.12.15 NMAC – N/E, 05/15/2024]

History of 13.2.12 NMAC: [RESERVED]

Health Care Consolidation Oversight Roundtable Meeting

April 17, 2024, 10:00AM

HEALTH CARE CONSOLIDATION OVERSIGHT

NOTICE OF PROPOSED TRANSACTION

To complete the following application:

(a) double-click the text box that will open up to an attached new word document;

(b) after entering the response, save the text box document;

(c) the text will then be incorporated into the application itself.

The Notice of Proposed Transaction shall include:

1. Provide a list of all parties. Including: Name; Website; Mailing Address; Federal Tax ID Number; List of current health care related licenses issued by regulatory agencies; Contact person (title, phone number, email address, and mailing address).

2. Describe the terms of the proposed transaction and provide copies of all transaction agreements between any of the parties, and if known, all new entities that will be formed as a result of the transaction.

3. Proposed or anticipated date of transaction closure.

4. Provide a statement describing the goals of the proposed transaction and whether and how the proposed transaction affects health care services in New Mexico.

5. Describe the geographic service area of any hospital affected by the proposed transaction.

6. Describe the groups or individuals likely to be affected by the proposed transaction.

7. Provide a summary of the health care services currently provided by any of the parties and any health care services that will be added, reduced or eliminated, including an explanation of why any services will be reduced or eliminated in the service area in which they are currently provided.

AN ACT

RELATING TO INSURANCE; ENACTING THE HEALTH CARE CONSOLIDATION OVERSIGHT ACT; REQUIRING REVIEW OF PROPOSED HOSPITAL ACQUISITIONS AND OTHER CHANGES IN CONTROL OF HOSPITALS; GRANTING THE OFFICE OF SUPERINTENDENT OF INSURANCE AND THE HEALTH CARE AUTHORITY DEPARTMENT THE AUTHORITY TO REVIEW PROPOSED TRANSACTIONS; AUTHORIZING THE APPROVAL, DISAPPROVAL OR CONDITIONAL APPROVAL OF TRANSACTIONS; PROVIDING CONFIDENTIALITY; ASSESSING COSTS; REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

SECTION 1. A new section of the New Mexico Insurance Code is enacted to read:

"SHORT TITLE.--This act may be cited as the "Health Care Consolidation Oversight Act"."

SECTION 2. A new section of the New Mexico Insurance Code is enacted to read:

"DEFINITIONS.--As used in the Health Care Consolidation Oversight Act:

A. "acquisition" means an agreement or activity the consummation of which results in a person acquiring, directly or indirectly, the control of a hospital in New Mexico and includes the acquisition of voting securities, membership interests, equity interests or assets;

B. "affiliation" means a business arrangement in which one person directly or indirectly is controlled by, is under common control with or controls another person;

C. "authority" means the health care authority department;

D. "control" means the power to direct or cause the direction of the management and policies of a hospital, whether directly or indirectly, including through the ownership of voting securities, through licensing or franchise agreements or by contract other than a commercial contract for goods or nonmanagement services, unless the power is the result of an official position with or corporate office held by an individual;

E. "essential services" means health care services covered by the state medicaid program, health care services that are required to be included in health plans pursuant to state or federal law and health care services that are required to be included in qualified health plans offered through the New Mexico health insurance exchange;

F. "health care provider" means a person qualified or licensed under state law to perform or provide health care services;

G. "health insurer" means a person required to be licensed or subject to the Insurance Code in connection with the business of health insurance or health care;

H. "hospital" means a hospital licensed by the department of health or its successor health facility licensing agency, but "hospital" does not include a state university teaching hospital or a state-owned special hospital;

I. "management services organization" means a person that provides all or substantially all of the administrative or management services under contract with a hospital, including administering contracts with health plans, third-party administrators and pharmacy benefit managers, on behalf of the hospital;

J. "office" means the office of superintendent of insurance;

K. "party" means a person taking part in a transaction subject to the Health Care Consolidation Oversight Act;

L. "person" means an individual, association, organization, partnership, firm, syndicate, trust, corporation or other legal entity;

M. "superintendent" means the superintendent of insurance; and

N. "transaction" means any of the following:

(1) a merger of a hospital in New Mexico with another hospital;

(2) an acquisition of one or more hospitals

in New Mexico;

(3) any affiliation or contract or other agreement that results in a change of control of a hospital in New Mexico, including with a management services organization or health insurer;

(4) a formation of a new corporation, partnership, joint venture, trust, parent organization or management services organization that results in a change of control of an existing hospital in New Mexico; and

(5) a sale, purchase, lease, new affiliation or any agreement that results in control of a hospital in New Mexico."

SECTION 3. A new section of the New Mexico Insurance Code is enacted to read:

"APPLICABILITY--PROVISIONS ADDITIONAL--CONTROL PRESUMPTIONS.--

A. The oversight power of the office pursuant to the Health Care Consolidation Oversight Act applies to proposed transactions that involve a New Mexico hospital.

B. Being subject to the Health Care Consolidation Oversight Act does not preclude or negate any person regulated pursuant to the Insurance Holding Company Law.

C. Control is presumed to exist if a person, directly or indirectly, owns, controls, holds fifteen percent or more of the power to vote or holds proxies representing

fifteen percent or more of the voting securities of any other person. The presumption may be rebutted by a showing in the manner provided by Section 59A-37-19 NMSA 1978 that control does not in fact exist."

SECTION 4. A new section of the New Mexico Insurance Code is enacted to read:

"CONFIDENTIALITY.--All documents, materials or other information in the possession or control of the office that are obtained by or disclosed to the office or the authority in the course of a review under the Health Care Consolidation Oversight Act are confidential."

SECTION 5. A new section of the New Mexico Insurance Code is enacted to read:

"TIMING OF REVIEW OF NOTICE AND TOLLING.--

A. A notice of a proposed transaction shall be deemed complete by the office on the date when all the information required by the Health Care Consolidation Oversight Act or requested by the office is submitted by all the parties to the transaction, as applicable.

B. Should the scope of the proposed transaction be significantly modified from that outlined in the initial notice, the time periods set out in the Health Care Consolidation Oversight Act shall be restarted by the office.

C. The time periods shall be tolled during any time in which the office has requested and is awaiting

further information from the parties to a transaction necessary to complete its review."

SECTION 6. A new section of the New Mexico Insurance Code is enacted to read:

"NOTICE OF PROPOSED TRANSACTION--GENERAL PROVISIONS--REQUIREMENTS--CONSULTATIONS--EXPERTS--PAYMENT OF COSTS.--

A. At least one person that is a party to a proposed transaction shall submit to the office a written notice of the proposed transaction in the form and manner prescribed by the office. The parties shall pay the reasonable costs and expenses incurred by the office in the performance of the office's or authority's duties pursuant to the Health Care Consolidation Oversight Act for costs associated with the office's contracts with experts, unless determined otherwise by the superintendent. The office shall notify parties before any costs are incurred when a transaction review requires the use of outside experts, including the estimated cost of their services.

B. Upon receipt of a complete notice of a proposed transaction, the office shall determine if the transaction is urgently necessary to maintain the solvency of a hospital or if there is an emergency that threatens the continued provision of immediate health care services. In such circumstances, the office may agree to an immediate approval of a transaction with or without conditions.

C. Entry into a binding agreement before a transaction is effectuated is not a violation of the Health Care Consolidation Oversight Act if the transaction remains subject to regulatory review and approval.

D. If a party to the proposed transaction is a health insurer, the notice shall be submitted as an addendum to any filing required by Sections 59A-37-4 through 59A-37-10 NMSA 1978.

E. The notice of the proposed transaction shall include:

(1) a list of the parties, the terms of the proposed transaction and copies of all transaction agreements between any of the parties;

(2) a statement describing the goals of the proposed transaction and whether and how the proposed transaction affects health care services in New Mexico;

(3) the geographic service area of any hospital affected by the proposed transaction;

(4) a description of the groups or individuals likely to be affected by the transaction; and

(5) a summary of the health care services currently provided by any of the parties and any health care services that will be added, reduced or eliminated, including an explanation of why any services will be reduced or eliminated in the service area in which they are currently

provided.

F. The office shall consult with the authority about the potential effect of the proposed transaction and incorporate the authority's recommendations into the office's final determination.

G. The office may retain actuaries, accountants, attorneys or other professionals who are qualified and have expertise in the type of transaction under review as necessary to assist the office in conducting its review of the proposed transaction.

H. The parties shall not effectuate a transaction without the written approval of the superintendent. The submitting party shall notify the office in a form and manner prescribed by the office when the transaction has been effectuated.

I. Parties to a proposed transaction may request a pre-notice conference to determine if they are required to file a notice or to discuss the potential extent of the review."

SECTION 7. A new section of the New Mexico Insurance Code is enacted to read:

"REVIEW OF PROPOSED TRANSACTION.--

A. Within one hundred twenty days of receiving a complete notice of a proposed transaction, the office shall complete a review, confer with the authority and either:

(1) approve the proposed transaction;

(2) approve the proposed transaction with conditions; or

(3) disapprove the proposed transaction.

B. The superintendent shall notify the submitting party in writing of the office's determination and the reasons for the determination.

C. The review period may be extended if the parties agree to an extension.

D. In conducting a review of a proposed transaction, the office may consider the likely effect in New Mexico of the proposed transaction on:

(1) the potential reduction or elimination in access to essential services;

(2) the availability, accessibility and quality of health care services to any community affected by the transaction;

(3) the health care market share of a party and whether the transaction may foreclose competitors of a party from a segment of the market or otherwise increase barriers to entry in a health care market;

(4) changes in practice restrictions for licensed health care providers who work at the hospital;

(5) patient costs, including premiums and out-of-pocket costs;

(6) health care provider networks; and

(7) the potential for the proposed transaction to affect health outcomes for New Mexico residents.

E. The office shall approve the proposed transaction after the comprehensive review if the office determines that:

(1) the parties to the proposed transaction have demonstrated that the transaction will benefit the public by:

(a) reducing the growth in patient costs, including premiums and out-of-pocket costs; or

(b) maintaining or increasing access to services, especially in medically underserved areas;

(2) the proposed transaction will improve health outcomes for New Mexico residents; and

(3) there is no substantial likelihood of:

(a) a significant reduction in the availability, accessibility, affordability or quality of care for patients and consumers of health care services; or

(b) anti-competitive effects from the proposed transaction that outweigh the benefits of the transaction."

SECTION 8. A new section of the New Mexico Insurance Code is enacted to read:

"POST-TRANSACTION OVERSIGHT.--

A. The person that acquired control over the hospital through an approved or conditionally approved transaction shall submit reports to the office and the authority in the form and manner prescribed by the office annually for three years after approval or conditional approval.

B. Reports shall:

(1) describe compliance with conditions placed on the transaction, if any;

(2) describe the growth, decline and other changes in services provided by the person; and

(3) provide analyses of cost trends and cost growth trends of the hospital."

SECTION 9. DELAYED REPEAL.--Sections 1 through 7 of this act are repealed effective July 1, 2025.