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SENATE BILL 375

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Stuart Ingle

AN ACT

RELATING TO HEALTH INSURANCE; AMENDING CERTAIN SECTIONS OF THE  
COMPREHENSIVE HEALTH INSURANCE POOL ACT; DEFINING CERTAIN  
ACTIONS AS UNFAIR TRADE PRACTICES.

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

Section 1. Section 59A-54-1 NMSA 1978 (being Laws 1987,  
Chapter 154, Section 1) is amended to read:

"59A-54-1. SHORT TITLE. -- [~~This article~~] Chapter 59A,  
Article 54 NMSA 1978 may be cited as the "[Comprehensive  
Health] Medical Insurance Pool Act". Any reference in any  
law, rule, division bulletin or other legal document to the  
Comprehensive Health Insurance Pool Act shall be deemed to  
refer to the Medical Insurance Pool Act."

Section 2. Section 59A-54-2 NMSA 1978 (being Laws 1987,  
Chapter 154, Section 2) is amended to read:

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1 "59A-54-2. PURPOSE. -- The purpose of the [~~Comprehensive~~  
2 ~~Health~~] Medical Insurance Pool Act is to provide access to  
3 health insurance coverage to all residents of New Mexico who  
4 are denied adequate health insurance and are considered  
5 uninsurable. "

6 Section 3. Section 59A-54-3 NMSA 1978 (being Laws 1987,  
7 Chapter 154, Section 3, as amended) is amended to read:

8 "59A-54-3. DEFINITIONS. -- As used in the [~~Comprehensive~~  
9 ~~Health~~] Medical Insurance Pool Act:

10 A. "board" means the board of directors of the  
11 pool;

12 B. "creditable coverage" means, with respect to an  
13 individual, coverage of the individual pursuant to:

14 (1) a group health plan;

15 (2) health insurance coverage;

16 (3) Part A or Part B of Title 18 of the  
17 Social Security Act;

18 (4) Title 19 of the Social Security Act  
19 except coverage consisting solely of benefits pursuant to  
20 Section 1928 of that title;

21 (5) 10 USCA Chapter 55;

22 (6) a medical care program of the Indian  
23 health service or of an Indian nation, tribe or pueblo;

24 (7) the [~~Comprehensive Health~~] Medical  
25 Insurance Pool Act;

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1 (8) a health plan offered pursuant to 5 USCA  
2 Chapter 89;

3 (9) a public health plan as defined in  
4 federal regulations; or

5 (10) a health benefit plan offered pursuant  
6 to Section 5(e) of the federal Peace Corps Act;

7 C. "health care facility" means any entity  
8 providing health care services that is licensed by the  
9 department of health;

10 D. "health care services" means any services or  
11 products included in the furnishing to any individual of  
12 medical care or hospitalization, or incidental to the  
13 furnishing of such care or hospitalization, as well as the  
14 furnishing to any person of any other services or products for  
15 the purpose of preventing, alleviating, curing or healing  
16 human illness or injury;

17 E. "health insurance" means any hospital and  
18 medical expense-incurred policy; nonprofit health care service  
19 plan contract; health maintenance organization subscriber  
20 contract; short-term, accident, fixed indemnity, specified  
21 disease policy or disability income contracts; limited benefit  
22 insurance; credit insurance; or as defined by Section 59A-7-3  
23 NMSA 1978. "Health insurance" does not include insurance  
24 arising out of the Workers' Compensation Act or similar law,  
25 automobile medical payment insurance or insurance under which

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1 benefits are payable with or without regard to fault and that  
2 is required by law to be contained in any liability insurance  
3 policy;

4 F. "health maintenance organization" means any  
5 person who provides, at a minimum, either directly or through  
6 contractual or other arrangements with others, basic health  
7 care services to enrollees on a fixed prepayment basis and who  
8 is responsible for the availability, accessibility and quality  
9 of the health care services provided or arranged, or as  
10 defined by Subsection M of Section 59A-46-2 NMSA 1978;

11 G. "health plan" means any arrangement by which  
12 persons, including dependents or spouses, covered or making  
13 application to be covered under the pool have access to  
14 hospital and medical benefits or reimbursement, including  
15 group or individual insurance or subscriber contract; coverage  
16 through health maintenance organizations, preferred provider  
17 organizations or other alternate delivery systems; coverage  
18 under prepayment, group practice or individual practice plans;  
19 coverage under uninsured arrangements of group or group-type  
20 contracts, including employer self-insured, cost-plus or other  
21 benefits methodologies not involving insurance or not subject  
22 to New Mexico premium taxes; coverage under group-type  
23 contracts that are not available to the general public and can  
24 be obtained only because of connection with a particular  
25 organization or group; and coverage by medicare or other

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1 governmental benefits. "Health plan" includes coverage  
2 through health insurance;

3 H. "insured" means an individual resident of this  
4 state who is eligible to receive benefits from any insurer or  
5 other health plan;

6 I. "insurer" means an insurance company authorized  
7 to transact health insurance business in this state, a  
8 nonprofit health care plan, a health maintenance organization  
9 and self-insurers not subject to federal preemption.

10 "Insurer" does not include an insurance company that is  
11 licensed under the Prepaid Dental Plan Law or a company that  
12 is solely engaged in the sale of dental insurance and is  
13 licensed not under that act, but under another provision of  
14 the Insurance Code;

15 J. "medicare" means coverage under Part A or Part  
16 B of Title 18 of the Social Security Act, as amended;

17 K. "pool" means the New Mexico [~~comprehensive~~  
18 ~~health~~] medical insurance pool; and

19 L. "therapist" means a licensed physical,  
20 occupational, speech or respiratory therapist."

21 Section 4. Section 59A-54-4 NMSA 1978 (being Laws 1987,  
22 Chapter 154, Section 4, as amended) is amended to read:

23 "59A-54-4. POOL CREATED-- BOARD. --

24 A. There is created a nonprofit entity to be known  
25 as the "New Mexico [~~comprehensive health~~] medical insurance

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1 pool". All insurers shall organize and remain members of the  
2 pool as a condition of their authority to transact insurance  
3 business in this state. The board [~~of the pool~~] is a  
4 governmental entity for purposes of the Tort Claims Act.

5 B. The superintendent shall, within sixty days  
6 after the effective date of the [~~Comprehensive Health~~] Medical  
7 Insurance Pool Act, give notice to all insurers of the time  
8 and place for the initial organizational meetings of the pool.  
9 Each member of the pool shall be entitled to one vote in  
10 person or by proxy at the organizational meetings.

11 C. The pool shall operate subject to the  
12 supervision and approval of the board. The board shall  
13 consist of the superintendent or his designee, who shall serve  
14 as the chairman of the board, four members appointed by the  
15 members of the pool and five members appointed by the  
16 superintendent. The members appointed by the members of the  
17 pool shall consist of one representative of a nonprofit health  
18 care plan, one representative of a health maintenance  
19 organization and two representatives of other types of members  
20 of the pool. The members appointed by the superintendent  
21 shall consist of four citizens who are not professionally  
22 affiliated with an insurer, at least two of whom shall be  
23 individuals who are insured by the pool, who would qualify for  
24 pool coverage if they were not eligible for particular group  
25 coverage or who are a parent, guardian, relative or spouse of

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1 such an individual. The superintendent's fifth appointment  
2 shall be a representative of a statewide health planning  
3 agency or organization.

4 D. The members of the board appointed by the  
5 members of the pool shall be appointed for initial terms of  
6 four years or less, staggered so that the term of one member  
7 shall expire on June 30 of each year. The members of the  
8 board appointed by the superintendent shall be appointed for  
9 initial terms of five years or less, staggered so that the  
10 term of one member expires on June 30 of each year. Following  
11 the initial terms, members of the board shall be appointed for  
12 terms of three years. If the members of the pool fail to make  
13 the initial appointments required by this subsection within  
14 sixty days following the first organizational meeting, the  
15 superintendent shall make those appointments. Whenever a  
16 vacancy on the board occurs, the superintendent shall fill the  
17 vacancy by appointing a person to serve the balance of the  
18 unexpired term. The person appointed shall meet the  
19 requirements for initial appointment to that position.  
20 Members of the board may be reimbursed from the pool subject  
21 to the limitations provided by the Per Diem and Mileage Act  
22 and shall receive no other compensation, perquisite or  
23 allowance.

24 E. The board shall submit a plan of operation to  
25 the superintendent and any amendments to it necessary or

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1 suitable to assure the fair, reasonable and equitable  
2 administration of the pool.

3 F. The superintendent shall, after notice and  
4 hearing, approve the plan of operation, provided it is  
5 determined to assure the fair, reasonable and equitable  
6 administration of the pool and provides for the sharing of  
7 pool losses on an equitable, proportionate basis among the  
8 members of the pool. The plan of operation shall become  
9 effective upon approval in writing by the superintendent  
10 consistent with the date on which coverage under the  
11 [~~Comprehensive Health~~] Medical Insurance Pool Act is made  
12 available. If the board fails to submit a plan of operation  
13 within one hundred eighty days after the appointment of the  
14 board [~~of directors~~], or any time thereafter fails to submit  
15 necessary amendments to the plan of operation, the  
16 superintendent shall, after notice and hearing, adopt and  
17 promulgate such rules as are necessary or advisable to  
18 effectuate the provisions of the [~~Comprehensive Health~~]  
19 Medical Insurance Pool Act. Rules promulgated by the  
20 superintendent shall continue in force until modified by him  
21 or superseded by a subsequent plan of operation submitted by  
22 the board and approved by the superintendent.

23 G. Any reference in law, rule, division bulletin,  
24 contract or other legal document to the New Mexico  
25 comprehensive health insurance pool shall be deemed to refer

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1 to the New Mexico medical insurance pool."

2 Section 5. Section 59A-54-7 NMSA 1978 (being Laws 1987,  
3 Chapter 154, Section 7, as amended) is amended to read:

4 "59A-54-7. BOARD--POWERS AND DUTIES.--The board shall  
5 have the general powers and authority granted under the laws  
6 of this state to insurance companies licensed to transact  
7 health insurance business. In addition, the board shall have  
8 the specific authority to:

9 A. enter into contracts as are necessary or proper  
10 to carry out the provisions and purposes of the [~~Comprehensive~~  
11 ~~Health~~] Medical Insurance Pool Act, including the authority,  
12 with the approval of the superintendent, to enter into  
13 contracts with similar pools of other states for the joint  
14 performance of common administrative functions or with persons  
15 or other organizations for the performance of [~~administrative~~]  
16 administrative functions. The pool shall comply with the  
17 Procurement Code except as otherwise provided in the  
18 [~~Comprehensive Health~~] Medical Insurance Pool Act;

19 B. sue or be sued, including taking any legal  
20 action as necessary to avoid the payment of improper claims  
21 against the pool or the coverage provided by or through the  
22 pool;

23 C. establish appropriate rates, rate schedules,  
24 rate adjustments, expense allowances, agent referral fees,  
25 claim reserve formulas and any other actuarial functions

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1 appropriate to the operation of the pool. Rates and rate  
2 schedules may be adjusted for appropriate risk factors such as  
3 age and area variation in claim costs and shall take into  
4 consideration appropriate risk factors in accordance with  
5 established actuarial underwriting practices;

6 D. assess members of the pool in accordance with  
7 the provisions of the [~~Comprehensive Health~~] Medical Insurance  
8 Pool Act and make initial and interim assessments as may be  
9 reasonable and necessary for the organizational or interim  
10 operating expenses of the pool. Interim [~~expenses~~]  
11 assessments shall be credited as offsets against any regular  
12 assessments due following the close of the calendar year.  
13 Interim assessments may include anticipated expenses of the  
14 next year that the board determines are reasonable and  
15 necessary for the operating expenses of the pool;

16 E. issue policies of insurance in accordance with  
17 the requirements of the [~~Comprehensive Health~~] Medical  
18 Insurance Pool Act;

19 F. appoint appropriate legal, actuarial and other  
20 committees as necessary to provide technical assistance in the  
21 operation of the pool, policy and other contract design and  
22 any other function within the authority of the pool; and

23 G. conduct periodic audits to assure the general  
24 accuracy of the financial data submitted to the pool. The  
25 board shall cause the pool to have an annual audit of its

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1 operations by an independent certified public accountant."

2 Section 6. Section 59A-54-10 NMSA 1978 (being Laws 1987,  
3 Chapter 154, Section 10, as amended) is amended to read:

4 "59A-54-10. ASSESSMENTS. --

5 A. Following the close of each fiscal year, the  
6 pool administrator shall determine the net premium, being  
7 premiums less administrative expense allowances, the pool  
8 expenses and claim expense losses for the year, taking into  
9 account investment income and other appropriate gains and  
10 losses. The assessment for each insurer shall be determined  
11 by multiplying the total cost of pool operation by a fraction  
12 the numerator of which equals that insurer's premium and  
13 subscriber contract charges or their equivalent for health  
14 insurance written in the state during the preceding calendar  
15 year and the denominator of which equals the total of all  
16 premiums and subscriber contract charges written in the state;  
17 provided that premium income shall not include any payments by  
18 the secretary of health and human services pursuant to a  
19 contract issued under Section 1876 of the Social Security Act,  
20 as amended. The board may adopt other or additional methods  
21 of adjusting the formula to achieve equity of assessments  
22 among pool members.

23 B. If assessments exceed actual losses and  
24 administrative expenses of the pool, the excess shall be held  
25 at interest and used by the board to offset future losses or

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1 to reduce pool premiums. As used in this subsection, "future  
2 losses" includes reserves for incurred but not reported  
3 claims.

4 C. The proportion of participation of each member  
5 in the pool shall be determined annually by the board based on  
6 annual statements and other reports deemed necessary by the  
7 board and filed with it by the member. Any deficit incurred  
8 by the pool shall be recouped by assessments apportioned among  
9 the members of the pool pursuant to the assessment formula  
10 provided by Subsection A of this section; provided that the  
11 assessment for any pool member shall be allowed as a [~~thirty~~  
12 fifty percent credit on the premium tax return for that  
13 member.

14 D. The board may abate or defer, in whole or in  
15 part, the assessment of a member of the pool if, in the  
16 opinion of the board, payment of the assessment would endanger  
17 the ability of the member to fulfill its contractual  
18 obligation. In the event an assessment against a member of  
19 the pool is abated or deferred in whole or in part, the amount  
20 by which such assessment is abated or deferred may be assessed  
21 against the other members in a manner consistent with the  
22 basis for assessments set forth in Subsection A of this  
23 section. The member receiving the abatement or deferment  
24 shall remain liable to the pool for the deficiency for four  
25 years. "

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1           Section 7. Section 59A-54-12 NMSA 1978 (being Laws 1987,  
2 Chapter 154, Section 12, as amended) is amended to read:

3           "59A-54-12. ELIGIBILITY--POLICY PROVISIONS. --

4           A. Except as provided in Subsection B of this  
5 section, a person is eligible for a pool policy only if on the  
6 effective date of coverage or renewal of coverage the person  
7 is a New Mexico resident, and:

8                   (1) is not eligible as an insured or covered  
9 dependent for any health plan that provides coverage for  
10 comprehensive major medical or comprehensive physician and  
11 hospital services;

12                   (2) is only eligible for a health plan that  
13 is offered at a rate higher than that available from the pool;

14                   (3) has been rejected for coverage for  
15 comprehensive major medical or comprehensive physician and  
16 hospital services;

17                   (4) is only eligible for a health plan with a  
18 rider, waiver or restrictive provision for that particular  
19 individual based on a specific condition;

20                   (5) has as of the date the individual seeks  
21 coverage from the pool an aggregate of eighteen or more months  
22 of creditable coverage, the most recent of which was under a  
23 group health plan, governmental plan or church plan as defined  
24 in Subsections P, N and D, respectively, of Section 59A-23E-2  
25 NMSA 1978, except, for the purposes of aggregating creditable

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1 coverage, a period of creditable coverage shall not be counted  
2 with respect to enrollment of an individual for coverage under  
3 the pool if, after that period and before the enrollment date,  
4 there was a sixty-three-day or longer period during all of  
5 which the individual was not covered under any creditable  
6 coverage; or

7 (6) is entitled to continuation coverage  
8 pursuant to Section 59A-23E-19 NMSA 1978.

9 B. Notwithstanding the provisions of Subsection A  
10 of this section:

11 (1) a person's eligibility for a policy  
12 issued under the Health Insurance Alliance Act shall not  
13 preclude a person from remaining on a pool policy; provided  
14 that a self-employed person who qualifies for an approved  
15 health plan under the Health Insurance Alliance Act by using a  
16 dependent as the second employee may choose a pool policy in  
17 lieu of the health plan under that act;

18 (2) a pool policyholder shall be eligible for  
19 renewal of pool coverage even though the policyholder became  
20 eligible for medicare or medicaid coverage while covered under  
21 a pool policy; and

22 (3) if a pool policyholder becomes eligible  
23 for any group health plan, the policyholder's pool coverage  
24 shall not be involuntarily terminated until any preexisting  
25 condition period imposed on the policyholder by the plan has

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1 been exhausted.

2 C. Coverage under a pool policy is in excess of  
3 and shall not duplicate coverage under any other form of  
4 health insurance.

5 D. A pool policy shall provide that coverage of a  
6 dependent unmarried person terminates when the person becomes  
7 nineteen years of age or, if the person is enrolled full time  
8 in an accredited educational institution, when he becomes  
9 twenty-five years of age. The policy shall also provide in  
10 substance that attainment of the limiting age does not operate  
11 to terminate coverage when the person is and continues to be:

12 (1) incapable of self-sustaining employment  
13 by reason of developmental disability or physical handicap;  
14 and

15 (2) primarily dependent for support and  
16 maintenance upon the person in whose name the contract is  
17 issued.

18 Proof of incapacity and dependency shall be furnished to  
19 the insurer within one hundred twenty days of attainment of  
20 the limiting age and subsequently as required by the insurer  
21 but not more frequently than annually after the two-year  
22 period following attainment of the limiting age.

23 E. A pool policy that provides coverage for a  
24 family member of the person in whose name the contract is  
25 issued shall, as to the coverage of the family member or the

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1 individual in whose name the contract was issued, provide that  
2 the health insurance benefits applicable for children are  
3 payable with respect to a newly born child of the family  
4 member or the person in whose name the contract is issued from  
5 the moment of coverage of injury or illness, including the  
6 necessary care and treatment of medically diagnosed congenital  
7 defects and birth abnormalities. If payment of a specific  
8 premium is required to provide coverage for the child, the  
9 contract may require that notification of the birth of a child  
10 and payment of the required premium shall be furnished to the  
11 carrier within thirty-one days after the date of birth in  
12 order to have the coverage continued beyond the thirty-one day  
13 period.

14 F. Except for a person eligible as provided in  
15 Paragraph (5) of Subsection A of this section, a pool policy  
16 may contain provisions under which coverage is excluded during  
17 a six-month period following the effective date of coverage as  
18 to a given individual for preexisting conditions, as long as  
19 either of the following exists:

20 (1) the condition has manifested itself  
21 within a period of six months before the effective date of  
22 coverage in such a manner as would cause an ordinarily prudent  
23 person to seek diagnoses or treatment; or

24 (2) medical advice or treatment was  
25 recommended or received within a period of six months before



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1 the effective date of coverage.

2 G. The preexisting condition exclusions described  
3 in Subsection F of this section shall be waived to the extent  
4 to which similar exclusions have been satisfied under any  
5 prior health insurance coverage that was involuntarily  
6 terminated, if the application for pool coverage is made not  
7 later than thirty-one days following the involuntary  
8 termination. In that case, coverage in the pool shall be  
9 effective from the date on which the prior coverage was  
10 terminated. This subsection does not prohibit preexisting  
11 conditions coverage in a pool policy that is more favorable to  
12 the insured than that specified in this subsection.

13 H. An individual is not eligible for coverage by  
14 the pool if:

15 (1) ~~[he]~~ except as provided in Subsection J  
16 of this section the individual is, at the time of application,  
17 eligible for medicare or medicaid which would provide coverage  
18 for amounts in excess of limited policies such as dread  
19 disease, cancer policies or hospital indemnity policies;

20 (2) ~~[he has]~~ the individual has voluntarily  
21 terminated coverage by the pool within the past twelve months;

22 (3) ~~[he]~~ the individual is an inmate of a  
23 public institution or is eligible for public programs for  
24 which medical care is provided;

25 (4) ~~[he]~~ the individual is eligible for

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1 coverage under a group health plan;

2 (5) [~~he~~] the individual has health insurance  
3 coverage as defined in Subsection R of Section 59A-23E-2 NMSA  
4 1978;

5 (6) the most recent coverages within the  
6 coverage period described in Paragraph (5) of Subsection A of  
7 this section were terminated as a result of nonpayment of  
8 premium or fraud; or

9 (7) [~~he~~] the individual has been offered the  
10 option of continuation coverage under a federal COBRA  
11 continuation provision as defined in Subsection F of Section  
12 59A-23E-2 NMSA 1978 or under a similar state program and he  
13 has elected the coverage and did not exhaust the continuation  
14 coverage under the provision or program.

15 I. Any person whose health insurance coverage from  
16 a qualified state health policy with similar coverage is  
17 terminated because of nonresidency in another state may apply  
18 for coverage under the pool. If the coverage is applied for  
19 within thirty-one days after that termination and if premiums  
20 are paid for the entire coverage period, the effective date of  
21 the coverage shall be the date of termination of the previous  
22 coverage.

23 J. The board may issue a pool policy for  
24 individuals who:

25 (1) are enrolled in both Part A and Part B of

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1 medicare because of a disability; and

2 (2) except for the eligibility for medicare,  
3 would otherwise be eligible for coverage pursuant to the  
4 criteria of this section."

5 Section 8. Section 59A-54-13 NMSA 1978 (being Laws 1987,  
6 Chapter 154, Section 13, as amended) is amended to read:

7 "59A-54-13. BENEFITS. --

8 A. The health insurance policy issued by the pool  
9 shall pay for medically necessary eligible health care  
10 services rendered or furnished for the diagnoses or treatment  
11 of illness or injury that [~~exceeds~~] exceed the deductible and  
12 coinsurance amounts applicable under Section 59A-54-14 NMSA  
13 1978 and are not otherwise limited or excluded. Eligible  
14 expenses are the charges for the health care services and  
15 items for which benefits are extended under the pool policy.  
16 The coverage to be issued by the pool and its schedule of  
17 benefits, exclusions and other limitations shall be  
18 established by the board and shall, at a ~~minimum~~, reflect the  
19 levels of health insurance coverage generally available in New  
20 Mexico for small group policies. The superintendent shall  
21 approve the benefit package developed by the board to ensure  
22 its compliance with the [~~Comprehensive Health~~] Medical  
23 Insurance Pool Act. The benefit package shall include therapy  
24 services and hearing aids.

25 B. The [~~Comprehensive Health~~] Medical Insurance

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1 Pool Act shall not be construed to prohibit the pool from  
2 issuing additional types of health insurance policies with  
3 different types of benefits which in the opinion of the board  
4 may be of benefit to the citizens of New Mexico.

5 C. The board may design and employ cost  
6 containment measures and requirements, including preadmission  
7 certification and concurrent inpatient review, for the purpose  
8 of making the pool more cost effective. "

9 Section 9. Section 59A-54-14 NMSA 1978 (being Laws 1987,  
10 Chapter 154, Section 14, as amended) is amended to read:

11 "59A-54-14. DEDUCTIBLES-- COINSURANCE-- MAXIMUM OUT-OF-  
12 POCKET PAYMENTS. --

13 A. Subject to the limitation provided in  
14 Subsection C of this section, a pool policy offered in  
15 accordance with the [~~Comprehensive Health~~] Medical Insurance  
16 Pool Act shall impose a deductible on a per-person calendar-  
17 year basis. Deductible plans of five hundred dollars (\$500)  
18 and one thousand dollars (\$1,000) shall initially be offered.  
19 The board may authorize deductibles in other amounts. The  
20 deductible shall be applied to the first five hundred dollars  
21 (\$500) or one thousand dollars (\$1,000) of eligible expenses  
22 incurred by the covered person.

23 B. Subject to the limitations provided in  
24 Subsection C of this section, a mandatory coinsurance  
25 requirement shall be imposed at the rate of twenty percent of

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1 eligible expenses in excess of the mandatory deductible.

2 C. The maximum aggregate out-of-pocket payments  
3 for eligible expenses by the insured shall be determined by  
4 the board. "

5 Section 10. Section 59A-54-16 NMSA 1978 (being Laws  
6 1987, Chapter 154, Section 16) is amended to read:

7 "59A-54-16. POOL POLICY. --

8 A. A pool policy offered under the [~~Comprehensive~~  
9 ~~Health~~] Medical Insurance Pool Act shall contain provisions  
10 under which the pool is obligated to renew the contract until  
11 the day on which the individual in whose name the contract is  
12 issued first becomes eligible for medicare coverage, except  
13 that in a family policy covering both husband and wife, the  
14 age of the younger spouse shall be used as the basis for  
15 meeting the durational requirement of this subsection.

16 B. The pool shall not change the rates for pool  
17 policies except on a class basis with a clear disclosure in  
18 the policy of the right of the pool to do so.

19 C. A pool policy offered under the [~~Comprehensive~~  
20 ~~Health~~] Medical Insurance Pool Act shall provide covered  
21 family members the right to continue the policy as the named  
22 insured or through a conversion policy upon the death of the  
23 named insured or upon the divorce, annulment or dissolution of  
24 marriage or legal separation of the spouse from the named  
25 insured by election to do so within a period of time specified

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1 in the contract subject to the requirements of Section  
2 59A-54-16 NMSA 1978. "

3 Section 11. Section 59A-54-17 NMSA 1978 (being Laws  
4 1987, Chapter 154, Section 17) is amended to read:

5 "59A-54-17. RULES. -- The superintendent shall:

6 A. adopt rules that provide for disclosure by  
7 members of the pool of the availability of insurance coverage  
8 from the pool;

9 B. adopt rules that implement the provisions of  
10 the [~~Comprehensive Health~~] Medical Insurance Pool Act; and

11 C. adopt any other rules deemed necessary in order  
12 to carry out the provisions of the [~~Comprehensive Health~~]  
13 Medical Insurance Pool Act. "

14 Section 12. Section 59A-54-18 NMSA 1978 (being Laws  
15 1987, Chapter 154, Section 18) is amended to read:

16 "59A-54-18. COLLECTIVE ACTION. -- Neither the  
17 participation by insurers in the pool, the establishment of  
18 rates, forms or procedures for coverages issued by the pool  
19 nor any other joint or collective action required by the  
20 [~~Comprehensive Health~~] Medical Insurance Pool Act shall be the  
21 basis of any legal action, civil or criminal liability or  
22 penalty against the members of the pool either jointly or  
23 separately. "

24 Section 13. Section 59A-54-19 NMSA 1978 (being Laws  
25 1987, Chapter 154, Section 19, as amended) is amended to read:

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1 "59A-54-19. RATES- - STANDARD RISK RATE. - -

2 A. The pool shall determine a standard risk rate  
3 by actuarially calculating the individual rate that an insurer  
4 would charge for an individual policy with the pool benefits  
5 issued to a person who was a standard risk. Separate  
6 schedules of standard risk rates based on age and other  
7 appropriate demographic characteristics may be used. In  
8 determining the standard risk rate, the pool shall consider  
9 the benefits provided, the standard risk experience and the  
10 anticipated expenses for a standard risk for the coverage  
11 provided. The rates charged for pool coverage shall be no  
12 more than one hundred fifty percent of the standard risk rate  
13 for each class of insureds.

14 B. ~~[The board shall adopt a rate that provides~~  
15 ~~that a person with an income less than or equal to the federal~~  
16 ~~poverty level shall pay no more than one hundred percent of~~  
17 ~~the standard risk rate. The board shall adopt a schedule of~~  
18 ~~rates so that rates for persons with incomes between one~~  
19 ~~hundred and two hundred percent of the federal poverty level~~  
20 ~~shall pay a rate that varies equitably by income level up to~~  
21 ~~the maximum one hundred fifty percent of the standard risk~~  
22 ~~rate. As nearly as is practical, no person's rate shall~~  
23 ~~exceed the standard risk rate by a percentage that is more~~  
24 ~~than one-half the percentage by which the person's income~~  
25 ~~exceeds the federal poverty level.] The board shall adopt a~~

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underscored material = new  
[bracketed material] = delete

1 low-income premium schedule that provides coverage at lower  
2 rates for those persons with an income less than an amount to  
3 be determined by the board. The board shall adopt as many  
4 income categories as it finds practical and shall determine  
5 income based on the preceding taxable year. No person shall  
6 be eligible for a low-income premium reduction if that  
7 person's premium is paid by a third party who is not a family  
8 member.

9 C. All rates and rate schedules shall be submitted  
10 to the superintendent for approval. "

11 Section 14. A new section of Chapter 59A, Article 16  
12 NMSA 1978 is enacted to read:

13 "[NEW MATERIAL] MEDICAL INSURANCE POOL ACT--UNFAIR  
14 REFERRAL.--It is an unfair trade practice for an insurer or  
15 other person to refer an individual employee or an employee's  
16 eligible dependent to the plan offered pursuant to the Medical  
17 Insurance Pool Act or to arrange for an individual employee or  
18 an employee's eligible dependent to apply to the plan, for the  
19 purpose of separating that employee or dependent from group  
20 health insurance coverage provided in connection with the  
21 employee's employment. "