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HOUSE BILL 414

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

Nathan "Nate" Cote

AN ACT

RELATING TO HEALTH CARE; UPDATING CERTAIN SECTIONS OF LAW TO INCLUDE AN ADVANCED PRACTICE REGISTERED NURSE, A CERTIFIED NURSE-MIDWIFE OR A PHYSICIAN ASSISTANT WORKING WITHIN THAT PERSON'S SCOPE OF PRACTICE; REQUIRING STATE AGENCIES AND POLITICAL SUBDIVISIONS TO UPDATE THEIR RULES TO INCLUDE THESE HEALTH CARE PRACTITIONERS WHERE APPROPRIATE.

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

SECTION 1. Section 7-2-18.1 NMSA 1978 (being Laws 1981, Chapter 170, Section 1, as amended) is amended to read:

"7-2-18.1. CREDIT FOR EXPENSES FOR DEPENDENT CHILD DAY CARE NECESSARY TO ENABLE GAINFUL EMPLOYMENT TO PREVENT INDIGENCY.--

A. As used in this section:

(1) "caregiver" means a corporation or an

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1 individual eighteen years of age or over who receives  
2 compensation from ~~[the]~~ a resident for providing direct care,  
3 supervision and guidance to a qualifying dependent of the  
4 resident for less than twenty-four hours daily and includes  
5 related individuals of the resident but does not include a  
6 dependent of the resident;

7 (2) "cost of maintaining a household" means  
8 the expenses incurred for the mutual benefit of the occupants  
9 thereof by reason of its operation as the principal place of  
10 abode of such occupants, including property taxes, mortgage  
11 interest, rent, utility charges, upkeep and repairs, property  
12 insurance and food consumed on the premises. "Cost of  
13 maintaining a household" shall not include expenses otherwise  
14 incurred, including cost of clothing, education, medical  
15 treatment, vacations, life insurance, transportation and  
16 mortgages;

17 (3) "dependent" means "dependent" as defined  
18 by Section 152 of the Internal Revenue Code, as that section  
19 may be amended or renumbered, but also includes any minor child  
20 or stepchild of the resident who would be a dependent for  
21 federal income tax purposes if the public assistance  
22 contributing to the support of the child or stepchild was  
23 considered to have been contributed by the resident;

24 (4) "disabled person" means a person who has a  
25 medically determinable physical or mental impairment, as

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1 certified by a licensed physician or an advanced practice  
2 registered nurse, certified nurse-midwife or physician  
3 assistant working within that person's scope of practice, that  
4 renders such person unable to engage in gainful employment;

5 (5) "gainfully employed" means working for  
6 remuneration for others, either full time or part time, or  
7 self-employment in a business or partnership; and

8 (6) "qualifying dependent" means a dependent  
9 under the age of fifteen at the end of the taxable year who  
10 receives the services of a caregiver.

11 B. Any resident who files an individual New Mexico  
12 income tax return and who is not a dependent of another  
13 taxpayer may claim a credit for child day care expenses  
14 incurred and paid to a caregiver in New Mexico during the  
15 taxable year by such resident if the resident:

16 (1) singly or together with a spouse furnishes  
17 over half the cost of maintaining the household for one or more  
18 qualifying dependents for any period in the taxable year for  
19 which the credit is claimed;

20 (2) is gainfully employed for any period for  
21 which the credit is claimed or, if a joint return is filed,  
22 both spouses are gainfully employed or one is disabled for any  
23 period for which the credit is claimed;

24 (3) compensates a caregiver for child  
25 day care for a qualifying dependent to enable such resident

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1 together with [~~his~~] the resident's spouse, if any and if not  
2 disabled, to be gainfully employed;

3 (4) is not a recipient of public assistance  
4 under a program of aid to families with dependent children, a  
5 program under the New Mexico Works Act or any successor program  
6 during any period for which the credit provided by this section  
7 is claimed; and

8 (5) has a modified gross income, including  
9 child support payments, if any, of not more than the annual  
10 income that would be derived from earnings at double the  
11 federal minimum wage.

12 C. The credit provided for in this section shall be  
13 forty percent of the actual compensation paid to a caregiver by  
14 the resident for a qualifying dependent not to exceed four  
15 hundred eighty dollars (\$480) for each qualifying dependent or  
16 a total of one thousand two hundred dollars (\$1,200) for all  
17 qualifying dependents for a taxable year. For the purposes of  
18 computing the credit, actual compensation shall not exceed  
19 eight dollars (\$8.00) per day for each qualifying dependent.

20 D. The caregiver shall furnish the resident with a  
21 signed statement of compensation paid by the resident to the  
22 caregiver for day care services. Such statements shall specify  
23 the dates and the total number of days for which payment has  
24 been made.

25 E. If the resident taxpayer has a federal tax

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1 liability, the taxpayer shall claim from the state not more  
2 than the difference between the amount of the state child care  
3 credit for which the taxpayer is eligible and the federal  
4 credit for child and dependent care expenses the taxpayer is  
5 able to deduct from federal tax liability for the same taxable  
6 year; provided, for first year residents only, the amount of  
7 the federal credit for child and dependent care expenses may be  
8 reduced to an amount equal to the amount of federal credit for  
9 child and dependent care expenses the resident is able to  
10 deduct from federal tax liability multiplied by the ratio of  
11 the number of days of residence in New Mexico during the  
12 resident's taxable year to the total number of days in the  
13 resident's taxable year.

14 F. The credit provided for in this section may be  
15 deducted from the taxpayer's New Mexico income tax liability  
16 for the taxable year. If the credit exceeds the taxpayer's  
17 income tax liability, the excess shall be refunded to the  
18 taxpayer.

19 G. A husband and wife maintaining a household for  
20 one or more qualifying dependents and filing separate returns  
21 for a taxable year for which they could have filed a joint  
22 return:

23 (1) may each claim only one-half of the credit  
24 that would have been claimed on a joint return; and

25 (2) are eligible for the credit provided in

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1 this section only if their joint modified gross income,  
2 including child support payments, if any, is not more than the  
3 annual income that would be derived from earnings at double the  
4 federal minimum wage."

5 SECTION 2. Section 12-10A-13 NMSA 1978 (being Laws 2003,  
6 Chapter 218, Section 13) is amended to read:

7 "12-10A-13. VACCINATION AND TREATMENT.--

8 A. During a state of public health emergency, a  
9 qualified person authorized by the secretary of health may  
10 vaccinate persons to prevent infection by a threatening  
11 communicable disease and to protect against the spread of that  
12 disease.

13 B. To protect against the spread of a threatening  
14 communicable disease, the secretary of health may isolate or  
15 quarantine a person who is unable or unwilling for reasons of  
16 health, religion or conscience to undergo vaccination pursuant  
17 to the standards and procedures set forth in the Public Health  
18 Emergency Response Act.

19 C. A qualified person authorized by the secretary  
20 of health may vaccinate a minor less than eighteen years of  
21 age, unless the minor or ~~[his]~~ the minor's duly authorized  
22 representative presents a certificate issued by a duly licensed  
23 physician or an advanced practice registered nurse, certified  
24 nurse-midwife or physician assistant working within that  
25 person's scope of practice that states that the minor's

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1 physical condition is such that the vaccination would seriously  
2 endanger [~~his~~] the minor's life or health.

3 D. During a state of public health emergency, in  
4 order to provide treatment to a person who is exposed to or  
5 infected with a threatening communicable disease:

6 (1) treatment may be administered by a public  
7 health official;

8 (2) treatment shall be approved pursuant to  
9 appropriate regulations promulgated by the federal food and  
10 drug administration; and

11 (3) the secretary of health may isolate or  
12 quarantine a person who is unable or unwilling, for reasons of  
13 health, religion or conscience, to undergo treatment pursuant  
14 to the standards and procedures set forth in the Public Health  
15 Emergency Response Act."

16 SECTION 3. Section 22-10A-34 NMSA 1978 (being Laws 1967,  
17 Chapter 16, Section 112, as amended) is amended to read:

18 "22-10A-34. COMMUNICABLE DISEASES--PROHIBITED  
19 EMPLOYMENT--PENALTY.--

20 A. No person afflicted with a communicable disease  
21 in a transmissible [~~state~~] stage dangerous to the health of  
22 students shall be employed in a public or private school in  
23 this state.

24 B. The department of health after consultation with  
25 the [~~state board~~] public education department shall adopt and

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1 issue regulations designating those communicable diseases in a  
2 transmissible stage that are dangerous to the health of  
3 students.

4 C. Each person employed in a public or private  
5 school, including bus drivers, shall present to the governing  
6 authority of the school where employed, upon initial  
7 employment, a certificate from a licensed physician or an  
8 advanced practice registered nurse, certified nurse-midwife or  
9 physician assistant working within that person's scope of  
10 practice stating that the person is free from all communicable  
11 diseases in a transmissible stage dangerous to the health of  
12 students.

13 D. The certificate from a licensed physician or an  
14 advanced practice registered nurse, certified nurse-midwife or  
15 physician assistant working within that person's scope of  
16 practice shall be according to a form prescribed by the  
17 department of health and approved by the [~~state board~~] public  
18 education department. The certificate [~~must~~] shall be obtained  
19 from a licensed physician or an advanced practice registered  
20 nurse, certified nurse-midwife or physician assistant working  
21 within that person's scope of practice not more than ninety  
22 days prior to the date of employment.

23 E. Any person violating the provisions of this  
24 section by not obtaining a certificate from a licensed  
25 physician or an advanced practice registered nurse, certified

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1 nurse-midwife or physician assistant working within that  
2 person's scope of practice as required is guilty of a petty  
3 misdemeanor."

4 SECTION 4. Section 24-8-4 NMSA 1978 (being Laws 1973,  
5 Chapter 107, Section 4) is amended to read:

6 "24-8-4. PROHIBITION AGAINST INTERFERENCE WITH MEDICAL  
7 JUDGMENT OF ~~[PHYSICIANS]~~ CERTAIN HEALTH CARE PROFESSIONALS.--  
8 The Family Planning Act does not prohibit or inhibit any person  
9 from refusing to provide any family planning service on the  
10 grounds that there are valid medical reasons for the refusal  
11 and that those reasons are based upon the judgment of a  
12 physician or a physician assistant, advanced practice  
13 registered nurse or certified nurse-midwife working within that  
14 person's scope of practice given in the specific case of the  
15 person for whom services are refused."

16 SECTION 5. Section 24-8-5 NMSA 1978 (being Laws 1973,  
17 Chapter 107, Section 5) is amended to read:

18 "24-8-5. PROHIBITION AGAINST IMPOSITION OF STANDARDS AND  
19 REQUIREMENTS AS PREREQUISITES FOR RECEIPT OF REQUESTED FAMILY  
20 PLANNING SERVICES.--Neither the state, its local governmental  
21 units nor any health facility furnishing family planning  
22 services shall subject any person to any standard or  
23 requirement as a prerequisite to the receipt of any requested  
24 family planning service except for:

25 A. a requirement of referral to a physician or a

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1 physician assistant, advanced practice registered nurse or  
2 certified nurse-midwife working within that person's scope of  
3 practice when the requested family planning service is  
4 something other than information about family planning or  
5 nonprescription items;

6 B. any requirement imposed by law or regulation as  
7 a prerequisite to the receipt of a family planning service; or

8 C. payment for the service when payment is required  
9 in the ordinary course of providing the particular service to  
10 the person involved."

11 SECTION 6. Section 24-10C-6 NMSA 1978 (being Laws 1999,  
12 Chapter 94, Section 6, as amended) is amended to read:

13 "24-10C-6. EXEMPTION.--Nothing in the Cardiac Arrest  
14 Response Act precludes a physician or a physician assistant,  
15 advanced practice registered nurse or certified nurse-midwife  
16 working within that person's scope of practice from prescribing  
17 an automated external defibrillator to a patient for use by the  
18 patient's caregiver on an individual patient, and the use does  
19 not require the individual to function in an approved program."

20 SECTION 7. Section 32A-6A-12 NMSA 1978 (being Laws 2007,  
21 Chapter 162, Section 12) is amended to read:

22 "32A-6A-12. PERSONAL RIGHTS OF A CHILD IN AN OUT-OF-HOME  
23 TREATMENT OR HABILITATION PROGRAM--SCOPE.--

24 A. A child in an out-of-home treatment or  
25 habilitation program shall have, in addition to other rights

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1 set forth in the Children's Mental Health and Developmental  
2 Disabilities Act, the right to:

3 (1) be placed in a manner consistent with the  
4 least restrictive means principle;

5 (2) have access to the state's designated  
6 protection and advocacy system and access to an attorney of the  
7 child's choice, provided that the child is not entitled to  
8 appointment of an attorney at public expense, except as  
9 otherwise provided in Subsection C of Section [~~13 of the~~  
10 ~~Children's Mental Health and Developmental Disabilities Act~~]  
11 32A-6A-13 NMSA 1978;

12 (3) receive visitors of the child's own  
13 choosing on a daily basis, subject to restrictions imposed in  
14 the best interests of the child by the child's clinician for  
15 good cause. Hours during which visitors may be received shall  
16 be limited only in the interest of effective treatment and the  
17 reasonable efficiency of the program and shall be sufficiently  
18 flexible to accommodate the individual needs of the child and  
19 the child's visitors. Notwithstanding the provisions of this  
20 subsection, each child has the right to receive visits from the  
21 child's attorney; physician; physician assistant, advanced  
22 practice registered nurse or certified nurse-midwife working  
23 within that person's scope of practice; psychologist; clergy;  
24 guardian ad litem; or representatives from the state's  
25 protection and advocacy system or children, youth and families

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1 department in private at any reasonable time, irrespective of  
2 visiting hours, provided the visitor shows reasonable cause for  
3 lvisiting at times other than normal visiting hours;

4 (4) have writing materials and postage stamps  
5 reasonably available for the child's use in writing letters and  
6 other communications. Reasonable assistance shall be provided  
7 for writing, addressing and posting letters and other documents  
8 upon request. The child has the right to send and receive  
9 sealed and uncensored mail. The child has the right to  
10 reasonable private access to telephones, and, in cases of  
11 personal emergencies when other means of communication are not  
12 satisfactory, the child shall be afforded reasonable use of  
13 long distance calls; provided that for other than mail or  
14 telephone calls to a court; an attorney; a physician; a  
15 physician assistant, advanced practice registered nurse or  
16 certified nurse-midwife working within that persons scope or  
17 practice; a psychologist; [~~a~~] clergy; a guardian ad litem; a  
18 representative from the state's protection and advocacy system;  
19 or a social worker, mailing or telephone privileges may be  
20 restricted by the child's clinician for good cause shown. A  
21 child who is indigent shall be furnished writing, postage and  
22 telephone facilities without charge;

23 (5) reasonable access to a legal custodian and  
24 a family member through visitation, videoconferencing,  
25 telephone access and opportunity to send and receive mail. In-

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1 person visitation is preferred, and reasonable efforts shall be  
2 made to facilitate such visitation unless the child and family  
3 choose otherwise. Access by legal custodians and family  
4 members to the child shall be limited only in the interest of  
5 effective treatment and the reasonable efficiency of the  
6 program and shall be sufficiently flexible to accommodate the  
7 individual needs of legal custodians and family members.

8 Treatment needs that justify limitation on the access rights of  
9 a legal custodian or family member must be specifically  
10 documented by the clinician in the child's record, and any such  
11 limitation automatically expires in seven days;

12 (6) follow or abstain from the practice of  
13 religion. The program shall provide appropriate assistance in  
14 this connection, including reasonable accommodations for  
15 religious worship and transportation to nearby religious  
16 services. A child who does not wish to participate in  
17 religious practice shall be free from pressure to do so or to  
18 accept religious beliefs;

19 (7) a humane psychological and physical  
20 environment. The child shall be provided a comfortable bed and  
21 adequate changes of linen and reasonable secure storage space  
22 for personal possessions. Except when curtailed for reasons of  
23 safety or therapy as documented in the child's record by the  
24 child's physician, the child shall be afforded reasonable  
25 privacy in sleeping and personal hygiene practices;

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1 (8) reasonable daily opportunities for  
2 physical exercise and outdoor exercise and reasonable access to  
3 recreational areas and equipment, including equipment adapted  
4 to the child's developmental and physical needs;

5 (9) a nourishing, well-balanced, varied and  
6 appetizing diet;

7 (10) prompt and adequate medical attention for  
8 a physical ailment. Each child shall receive a complete  
9 physical examination upon admission, except when documentation  
10 is provided that the child has had such examination within the  
11 six months immediately prior to the current admission. Each  
12 child shall receive a complete physical examination every  
13 twelve months thereafter;

14 (11) a clean, safe and comfortable environment  
15 in a structure that complies with applicable fire and safety  
16 requirements;

17 (12) appropriate medication and freedom from  
18 unnecessary or excessive medication. Medication shall not be  
19 used as discipline, as a substitute for programs, for the  
20 convenience of staff or in quantities that interfere with the  
21 child's treatment or habilitation program. No medication shall  
22 be administered unless by written order of a clinician licensed  
23 to prescribe medication or by an oral order noted immediately  
24 in the patient's medical record and signed by that clinician  
25 within twenty-four hours. All prescriptions for psychotropic

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1 medications must be reviewed at least every thirty days.  
2 Notation of each child's medication shall be kept in the  
3 child's medical records and shall include a notation by the  
4 clinician licensed to prescribe medication of the behavioral or  
5 symptomatic baseline data upon which the medication order was  
6 made; and

7 (13) a free public education. The child shall  
8 be educated in regular classes with nondisabled children  
9 whenever appropriate. In no event shall a child be allowed to  
10 remain in an out-of-home treatment or habilitation program for  
11 more than ten days without receiving educational services. If  
12 the child's placement in an out-of-home treatment or  
13 habilitation program is required by an individualized education  
14 plan that conforms to the requirements of state and federal  
15 law, the sending school is responsible for the provision of  
16 education to the child. In all other situations, the local  
17 school district in which the out-of-home treatment or  
18 habilitation program is located is responsible for the  
19 provision of educational services to the child. Nothing in  
20 this subsection shall limit a child's right to public education  
21 under state, tribal or federal law.

22 B. A child receiving services in an out-of-home  
23 treatment or habilitation program, including but not limited to  
24 residential treatment or habilitation programs, shall be  
25 provided notice of rights immediately upon admission to such

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1 program."

2 SECTION 8. Section 33-2-13 NMSA 1978 (being Laws 1889,  
3 Chapter 76, Section 44, as amended) is amended to read:

4 "33-2-13. PHYSICIAN, PHYSICIAN ASSISTANT, ADVANCED  
5 PRACTICE REGISTERED NURSE OR CERTIFIED NURSE-MIDWIFE WORKING  
6 WITHIN THAT PERSON'S SCOPE OF PRACTICE--RULES--PRISONER'S  
7 DISABILITY--RECORDS.--~~[Sec. 8. The]~~ A physician or a physician  
8 assistant, advanced practice registered nurse or certified  
9 nurse-midwife working within that person's scope of practice,  
10 when visiting the penitentiary of New Mexico, shall conform to  
11 [the] its rules and regulations. [thereof.--He] The physician  
12 or the physician assistant, advanced practice registered nurse  
13 or certified nurse-midwife working within that person's scope  
14 of practice shall express no opinion as to the disability of  
15 any prisoner except in [his record which he shall keep] records  
16 kept in the penitentiary."

17 SECTION 9. Section 52-1-55 NMSA 1978 (being Laws 1929,  
18 Chapter 113, Section 23, as amended) is amended to read:

19 "52-1-55. PHYSICAL EXAMINATIONS--STATEMENTS REGARDING  
20 DEPENDENTS--PRE-EMPLOYMENT PHYSICAL CONDITION STATEMENTS.--

21 A. It is the duty of the worker at the time of  
22 [his] the worker's employment or thereafter at the request of  
23 the employer to submit [himself] to examination by a physician  
24 or surgeon duly authorized to practice medicine in the state,  
25 or by a physician assistant, advanced practice registered nurse

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1 or certified nurse-midwife working within that person's scope  
2 of practice, who shall be paid by the employer, for the purpose  
3 of determining [~~his~~] the worker's physical condition.

4 B. It is also the duty of the worker, if required,  
5 to give the names, addresses, relationship and degree of  
6 dependency of [~~his~~] the worker's dependents, if any, or any  
7 subsequent change thereof to the employer, and when the  
8 employer or [~~his~~] the employer's insurance carrier requires,  
9 the worker shall make a detailed verified statement relating to  
10 such dependents, matters of employment and other information  
11 incident thereto.

12 C. It is also the duty of the worker, if requested  
13 by the employer or [~~his~~] the employer's insurance carrier, to  
14 make a detailed verified statement as part of an application  
15 for employment disclosing specifically any preexisting  
16 permanent physical impairment [~~as that term is defined in~~  
17 ~~Section 52-2-6 NMSA 1978~~]."

18 SECTION 10. Section 66-3-16 NMSA 1978 (being Laws 1978,  
19 Chapter 35, Section 36, as amended) is amended to read:

20 "66-3-16. DISTINCTIVE REGISTRATION PLATES--PERSONS WITH  
21 SIGNIFICANT MOBILITY LIMITATION--PARKING PLACARD.--

22 A. The division shall issue distinctive  
23 registration plates for use on motor vehicles and motorcycles  
24 owned by a person with a significant mobility limitation who  
25 requests a distinctive registration plate and who proves

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1 satisfactorily to the division that the person meets the  
2 standard provided in Subsection J of this section. No fee in  
3 addition to the regular registration fee, if any, applicable to  
4 the motor vehicle or motorcycle shall be collected for issuance  
5 of distinctive registration plates pursuant to this section.

6 B. No person shall falsely claim to have a  
7 significant mobility limitation so as to be eligible to be  
8 issued a distinctive registration plate or a parking placard  
9 pursuant to this section when the person does not in fact have  
10 a significant mobility limitation. Upon notice and opportunity  
11 to be heard, the division may revoke and demand return of any  
12 placard when:

13 (1) it was issued in error or with false  
14 information;

15 (2) the person receiving the placard is no  
16 longer eligible; or

17 (3) the placard is being used by ineligible  
18 persons.

19 C. Upon written application to the division  
20 accompanied by a medical statement by a licensed physician or a  
21 physician assistant, advanced practice registered nurse or  
22 certified nurse-midwife working within that person's scope of  
23 practice attesting to the permanent significant mobility  
24 limitation, a resident of the state who has a significant  
25 mobility limitation, as provided in this section, may apply for

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1 and be issued no more than two parking placards for display  
2 upon a motor vehicle registered to the person or motor vehicle  
3 owned by another person who is transporting the person with a  
4 significant mobility limitation. The physician or the  
5 physician assistant, advanced practice registered nurse or  
6 certified nurse-midwife working within that person's scope of  
7 practice shall provide the division all information and records  
8 necessary to issue a permanent parking placard. Once approved  
9 for use of a permanent parking placard, a person with a  
10 significant mobility limitation shall not be required to  
11 furnish further medical information.

12 D. A parking placard issued pursuant to this  
13 section shall expire four years from the date it was issued.

14 E. The division shall issue two-sided hanger-style  
15 parking placards with the following characteristics:

- 16 (1) a picture of the international symbol of  
17 access;
- 18 (2) a hologram to make duplication difficult;
- 19 (3) an imprinted expiration date; and
- 20 (4) a full-face photograph of the holder on  
21 the inside of the placard covered by a flap.

22 F. The division shall consult with the governor's  
23 commission on disability for continued issuance and format of  
24 the placard.

25 G. The division may issue an identification card

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1 containing a full-face photograph of the holder of the  
2 registration plate or parking placard and the number of the  
3 registration plate or parking placard issued to that person.

4 H. Upon written application to the division  
5 accompanied by a medical statement from a licensed physician or  
6 a physician assistant, advanced practice registered nurse or  
7 certified nurse-midwife working within that person's scope of  
8 practice attesting to a temporary significant mobility  
9 limitation, a person may be issued a temporary placard for no  
10 more than one year. The physician or the physician assistant,  
11 advanced practice registered nurse or certified nurse-midwife  
12 working within that person's scope of practice shall provide  
13 the division all information and records necessary to issue a  
14 temporary placard.

15 I. Registration plates or parking placards issued  
16 to a person with a significant mobility limitation by another  
17 state or foreign jurisdiction shall be honored until the motor  
18 vehicle or motorcycle is registered or the parking placard  
19 holder establishes residency in this state.

20 J. A "person with a significant mobility  
21 limitation" means a person who:

22 (1) cannot walk one hundred feet without  
23 stopping to rest;

24 (2) cannot walk without the use of a brace,  
25 cane or crutch or without assistance from another person, a

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1 prosthetic device, a wheelchair or other assistive device;

2 (3) is restricted by lung disease to such an  
3 extent that the person's forced respiratory volume, when  
4 exhaling for one second, when measured by spirometry, is less  
5 than one liter or the arterial oxygen tension is less than  
6 sixty millimeters on room air at rest;

7 (4) uses portable oxygen;

8 (5) has a severe cardiac condition; or

9 (6) is so severely limited in the ability to  
10 walk due to an arthritic, neurologic or orthopedic condition  
11 that the person cannot ascend or descend more than ten stair  
12 steps."

13 SECTION 11. TEMPORARY PROVISION--DIRECTING STATE AGENCIES  
14 AND POLITICAL SUBDIVISIONS TO UPDATE RULES REQUIRING AN  
15 EXAMINATION BY, OR CERTIFICATE OR STATEMENT OF, A LICENSED  
16 PHYSICIAN TO INCLUDE ADVANCED PRACTICE REGISTERED NURSE,  
17 CERTIFIED NURSE-MIDWIFE OR PHYSICIAN ASSISTANT WORKING WITHIN  
18 THAT PERSON'S SCOPE OF PRACTICE.--

19 A. By January 1, 2014, every cabinet secretary,  
20 agency head and head of a political subdivision of the state  
21 shall update rules requiring an examination by, a certificate  
22 from or a statement of a licensed physician to also accept such  
23 examination, certificate or statement from an advanced practice  
24 registered nurse, certified nurse-midwife or physician  
25 assistant working within that person's scope of practice.

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1           B. Every cabinet secretary, agency head and head of  
2 a political subdivision of the state shall submit proposed  
3 updated rules to the New Mexico medical board and to the board  
4 of nursing for a determination regarding which person among an  
5 advanced practice registered nurse, certified nurse-midwife or  
6 physician assistant working within that person's scope of  
7 practice may perform the function previously required of a  
8 licensed physician in the rules of the agency or political  
9 subdivision.

10           C. The New Mexico medical board and the board of  
11 nursing shall promptly review the proposed rules and confirm to  
12 the requestor which person among an advanced practice  
13 registered nurse, certified nurse-midwife or physician  
14 assistant working within that person's scope of practice may  
15 perform the function previously required of a licensed  
16 physician in the rules of the agency or political subdivision.