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HOUSE BILL 235

**55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

INTRODUCED BY  
Tara L. Lujan

AN ACT

RELATING TO INSURANCE; AMENDING, REPEALING AND ENACTING  
SECTIONS OF THE NEW MEXICO INSURANCE CODE.

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

SECTION 1. A new Section 59A-1-8.2 NMSA 1978 is enacted  
to read:

"59A-1-8.2. [NEW MATERIAL] DELIVER OR DELIVERY--  
DEFINITION.--"Deliver" or "delivery" means send to by:  
A. email and retain an email delivery confirmation;  
B. fax and retain a fax delivery confirmation;  
C. regular mail; or  
D. personal delivery."

SECTION 2. Section 59A-2-8 NMSA 1978 (being Laws 1984,  
Chapter 127, Section 26, as amended) is amended to read:

"59A-2-8. GENERAL POWERS AND DUTIES OF SUPERINTENDENT.--

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1 The superintendent shall:

2 A. organize and manage the office of superintendent  
3 of insurance and direct and supervise all its activities;

4 B. execute the duties imposed upon the  
5 superintendent by the Insurance Code;

6 C. enforce those provisions of the Insurance Code  
7 that are administered by the superintendent;

8 D. have the powers and authority expressly  
9 conferred by or reasonably implied from the provisions of the  
10 Insurance Code;

11 E. conduct such examinations and investigations of  
12 insurance matters, in addition to those expressly authorized,  
13 as the superintendent may deem proper upon reasonable and  
14 probable cause to determine whether a person has violated a  
15 provision of the Insurance Code or to secure information useful  
16 in the lawful enforcement or administration of the provision;

17 F. have the power to sue or be sued;

18 G. have the power to make, enter into and enforce  
19 all contracts, agreements and other instruments necessary,  
20 convenient or desirable in the exercise of the superintendent's  
21 powers and functions and for the purposes of the Insurance  
22 Code;

23 H. prepare an annual budget for the office of  
24 superintendent of insurance;

25 I. have the right to require performance bonds of

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1 employees as the superintendent deems necessary pursuant to the  
2 Surety Bond Act. The office of superintendent of insurance  
3 shall pay the cost of required bonds;

4 J. comply with the provisions of the Administrative  
5 Procedures Act; ~~and~~

6 K. upon the invocation of a state of emergency  
7 under the All Hazard Emergency Management Act or the Public  
8 Health Emergency Response Act by the governor, take all such  
9 actions necessary to maintain affordable access to insurance  
10 and health care and to address other insurance-related needs  
11 due to or associated with the emergency. Such authority shall  
12 extend through the declared period and for sixty days  
13 thereafter unless, after a hearing, the superintendent  
14 determines that the actions are still necessary to respond to  
15 the emergency; and

16 ~~[K-]~~ L. have such additional powers and duties as  
17 may be provided by other laws of this state."

18 SECTION 3. Section 59A-4-15 NMSA 1978 (being Laws 1984,  
19 Chapter 127, Section 59, as amended by Laws 2011, Chapter 127,  
20 Section 3 and by Laws 2011, Chapter 144, Section 1) is amended  
21 to read:

22 "59A-4-15. HEARINGS--IN GENERAL.--

23 A. The superintendent may hold a hearing, without  
24 request by others, for any purpose within the scope of the  
25 Insurance Code.

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1           B. The superintendent shall hold a hearing:  
2                 (1) if required by any other provision of the  
3 Insurance Code; or

4                 (2) upon written request for a hearing by a  
5 person aggrieved by any act, threatened act or failure of the  
6 superintendent to act or by any report, rule or order of the  
7 superintendent, other than an order for the holding of a  
8 hearing or order on hearing or pursuant to such an order on a  
9 hearing of which the person had notice.

10           C. The request for a hearing shall briefly state  
11 the respects in which the applicant is so aggrieved, the relief  
12 to be sought and the grounds to be relied upon as basis for  
13 relief. The request shall be received by the superintendent no  
14 later than thirty days from the date of the act, threatened act  
15 or failure of the superintendent to act or the date of the  
16 superintendent's report, rule or order.

17           D. If the superintendent finds that the request is  
18 made in good faith, that the applicant would be so aggrieved if  
19 the stated grounds are established and that such grounds  
20 otherwise justify the hearing, the superintendent shall  
21 commence the hearing within thirty days after filing of the  
22 request, unless postponed by mutual consent. No postponement  
23 shall be later than ninety days after the filing of the  
24 request.

25           E. Pending the hearing and decision, the

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1 superintendent may suspend or postpone the effective date of  
2 the action as to which the hearing is requested. If upon  
3 request the superintendent refuses to grant the suspension or  
4 postponement, the person requesting the hearing may apply no  
5 later than twenty days from the superintendent's refusal to the  
6 district court of Santa Fe county for a stay of the  
7 superintendent's action or proposed action pending the hearing  
8 and the superintendent's order.

9 F. Except as otherwise expressly provided, this  
10 section does not apply to hearings relative to matters arising  
11 under Chapter 59A, Article 17 NMSA 1978.

12 G. The superintendent may appoint a hearing officer  
13 to preside over hearings [~~on reconsideration of rate filings~~].  
14 The hearing officer shall provide the superintendent with a  
15 recommended decision on the matter assigned to the hearing  
16 officer, including findings of fact and conclusions of law."

17 SECTION 4. Section 59A-5-23 NMSA 1978 (being Laws 1984,  
18 Chapter 127, Section 90) is amended to read:

19 "59A-5-23. CONTINUANCE, EXPIRATION, REINSTATEMENT OF  
20 CERTIFICATE OF AUTHORITY.--

21 A. A certificate of authority shall continue in  
22 force as long as the insurer is entitled thereto under the  
23 Insurance Code, and until suspended or revoked by the  
24 superintendent or terminated at the insurer's request, subject,  
25 however, to continuance of the certificate by the insurer each

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1 year by:

2 (1) payment on or before March 1 of the  
3 continuation fee referred to in Section [~~101 (fee schedule) of~~  
4 ~~the Insurance Code~~] 59A-6-1 NMSA 1978;

5 (2) due filing by the insurer of its annual  
6 statement for the next preceding calendar year as required by  
7 Section [~~96 of this article~~] 59A-5-29 NMSA 1978; and

8 (3) payment by the insurer when due of premium  
9 taxes with respect to the preceding calendar year.

10 B. If not so continued by the insurer its  
11 certificate of authority shall expire at midnight on the date  
12 of failure of the insurer to continue it in force, unless  
13 earlier revoked as provided in Sections [~~91 through 93 of this~~  
14 ~~article~~] 59A-5-24 through 59A-5-26 NMSA 1978.

15 C. Upon the insurer's request made within three  
16 [~~3~~] months after expiration, the superintendent may reinstate  
17 a certificate of authority [~~which~~] that the insurer  
18 inadvertently permitted to expire, after the insurer has fully  
19 cured all its failures [~~which~~] that resulted in the expiration,  
20 and upon payment by the insurer of the fee for reinstatement  
21 specified in Section [~~101 (fee schedule) of the Insurance Code~~]  
22 59A-6-1 NMSA 1978. Otherwise the superintendent shall grant  
23 the insurer another certificate of authority only after filing  
24 an application therefor and meeting all other requirements as  
25 for an original certificate of authority in this state.

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1           D. If an insurer allows a certificate of authority  
2 issued by the superintendent to expire, the holder of the  
3 expired certificate shall remain subject to the provisions of  
4 the Insurance Code but is not authorized to transact any  
5 insurance business. If the insurer reinstates the expired  
6 certificate of authority within three months after expiration,  
7 the reinstatement shall relate back to the date of the  
8 expiration; provided that this shall not excuse any violation  
9 of the Insurance Code that occurred during the intervening  
10 period."

11           SECTION 5. Section 59A-5-32 NMSA 1978 (being Laws 1984,  
12 Chapter 127, Section 99) is amended to read:

13           "59A-5-32. SERVING PROCESS--TIME TO PLEAD.--

14           A. Service of process against an insurer for whom  
15 the superintendent is attorney shall be made by delivering by  
16 email to [~~and leaving with~~] the superintendent, [~~his deputy, or~~  
17 ~~a person in apparent charge of the office during the~~  
18 ~~superintendent's absence, two (2) copies]~~ or the  
19 superintendent's designee, an electronic copy of the process  
20 together with the fee [~~therefor~~] specified in Section [~~101 (fee~~  
21 ~~schedule) of the Insurance Code]~~ 59A-6-1 NMSA 1978, taxable as  
22 costs in the action.

23           B. Upon such service the superintendent shall  
24 [~~forthwith forward by prepaid registered or certified mail~~  
25 ~~return receipt requested one of the copies of]~~ deliver by email

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1 such process showing the date and time of service on the  
2 superintendent, to the email address of the person currently  
3 designated by the insurer to receive ~~[the copy]~~ such process as  
4 provided in Section ~~[98 (appointment of superintendent as~~  
5 ~~process agent) of this article]~~ 59A-5-31 NMSA 1978. Service of  
6 process on the insurer shall be complete upon ~~[receipt, or, in~~  
7 ~~the event of refusal to accept, the date of such refusal]~~ such  
8 electronic delivery of the process.

9 C. Process served as provided in this section shall  
10 for all purposes constitute valid and binding personal service  
11 within this state upon the insurer. If summons is served under  
12 this section, the time within which the insurer is required to  
13 appear shall be extended an additional ten ~~[-10-]~~ days beyond  
14 that otherwise allowed by New Mexico rules of civil procedure.

15 D. The superintendent shall keep record of the day  
16 and time of service of legal process under this section.

17 E. If the electronic delivery requirements of this  
18 section create a hardship for any person, that person may  
19 contact the superintendent or the superintendent's designee  
20 regarding an alternative manner of delivery. Process served in  
21 accordance with the superintendent's alternative manner of  
22 delivery shall for all purposes constitute valid and binding  
23 personal service within this state upon the insurer. If  
24 summons is served under this subsection, the time within which  
25 the insurer is required to appear shall be extended an

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1 additional ten days beyond that otherwise allowed by New Mexico  
2 rules of civil procedure."

3 SECTION 6. Section 59A-11-10 NMSA 1978 (being Laws 1984,  
4 Chapter 127, Section 189, as amended) is amended to read:

5 "59A-11-10. CONTINUATION, EXPIRATION OF LICENSE.--

6 A. The term of the license shall be perpetual,  
7 contingent upon payment of fees and completion of any  
8 continuing education requirements.

9 B. Individual licenses shall renew and continue on a  
10 biennial basis on the last day of the licensee's month of  
11 birth. Business entity licenses shall renew and continue on a  
12 biennial basis on March 1 of the biennial year; except for  
13 those types of business entity licenses that, pursuant to  
14 Section 59A-6-1 NMSA 1978, renew and continue on an annual  
15 basis, in which case those licenses shall renew and continue on  
16 March 1 of every year. Business entity affiliations shall  
17 renew and continue on an annual basis on March 1 of every year.

18 C. Any license referred to in this section that is  
19 not so continued shall be deemed to have terminated as of  
20 midnight on the last day of the licensee's month of birth if an  
21 individual license and as of midnight of March 1 if a business  
22 entity license; except that the superintendent may effectuate a  
23 request for continuation received within thirty days thereafter  
24 if accompanied by a continuation fee equal to one hundred fifty  
25 percent of the continuation fee otherwise required.

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1           D. If the superintendent has reason to believe that  
2 the competence of any licensee, or individual designated to  
3 exercise license powers, is questionable, the superintendent  
4 may require as condition of continuation of the license or  
5 license powers that the licensee or individual take and pass a  
6 written examination as required under the Insurance Code of new  
7 individual applicants for the same license.

8           E. ~~[This section shall not apply as to temporary~~  
9 ~~licenses, which shall be for such duration and subject to~~  
10 ~~extension as provided in the respective sections of the~~  
11 ~~Insurance Code by which such licenses are authorized.]~~ An  
12 insurance producer who allows the insurance producer's license  
13 to lapse may, within twelve months from the due date of the  
14 license renewal fee, reinstate the license without being  
15 required to pass a written examination; provided that the  
16 office of superintendent of insurance shall require a criminal  
17 history background investigation of the applicant by means of  
18 fingerprint checks in accordance with Subsections E and F of  
19 Section 59A-11-2 NMSA 1978 and shall assess a penalty in the  
20 amount of double the unpaid renewal fee for any renewal fee  
21 received after its due date.

22           F. All licenses and appointments of an insurer or  
23 other principal that ceases to be authorized to transact  
24 business in this state shall automatically terminate without  
25 notice as of date of such cessation.

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1 G. A license shall terminate upon death of the  
2 licensee, if an individual, or dissolution, if a corporation,  
3 or change in partners, if a partnership; provided that, in the  
4 case of a partnership, the license may be continued for a  
5 reasonable period while application for new license is being  
6 made or pending, as provided by rule."

7 SECTION 7. Section 59A-12-2 NMSA 1978 (being Laws 2016,  
8 Chapter 89, Section 26) is amended to read:

9 "59A-12-2. DEFINITIONS.--As used in Chapter 59A, Article  
10 12 NMSA 1978:

11 A. "affiliate" means a person that controls, is  
12 controlled by or is under common control with the insurance  
13 producer;

14 B. "business entity" means a corporation,  
15 association, partnership, limited liability company, limited  
16 liability partnership or other legal entity;

17 C. "home state" means the District of Columbia and  
18 any state or territory of the United States in which an  
19 insurance producer maintains the insurance producer's principal  
20 place of residence or principal place of business and is  
21 licensed to act as an insurance producer;

22 D. "insurance" means any of the lines of authority in  
23 Chapter 59A, Article 7 NMSA 1978;

24 E. "insurance producer" means a person required to be  
25 licensed under the laws of this state to sell, solicit or

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1 negotiate insurance;

2 F. "insurer" means every person engaged as principal  
3 and as indemnitor, surety or contractor in the business of  
4 entering into contracts of insurance;

5 G. "license" means a document issued by the  
6 superintendent authorizing a person to act as an insurance  
7 producer for the lines of authority specified in the document.  
8 The license itself does not create any authority, actual,  
9 apparent or inherent, in the holder to represent or commit an  
10 insurance carrier;

11 H. "limited line credit insurance" includes credit  
12 life, credit disability, credit property, credit unemployment,  
13 involuntary unemployment, mortgage life, mortgage guaranty,  
14 mortgage disability, guaranteed automobile protection insurance  
15 and any other form of insurance offered in connection with an  
16 extension of credit that is limited to partially or wholly  
17 extinguishing that credit obligation;

18 I. "limited line credit insurance producer" means a  
19 person who sells, solicits or negotiates one or more forms of  
20 limited line credit insurance coverage to individuals through a  
21 master, corporate, group or individual policy;

22 J. "limited lines insurance" means those lines of  
23 insurance referred to in Section 59A-12-18 NMSA 1978 or any  
24 other line of insurance that the superintendent deems necessary  
25 to recognize for the purposes of complying with Subsection E of  
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1 Section ~~[23 of this 2016 act]~~ 59A-11-24 NMSA 1978;

2 K. "limited lines producer" means a person authorized  
3 by the superintendent to sell, solicit or negotiate limited  
4 lines insurance;

5 L. "negotiate" means the act of conferring directly  
6 with or offering advice directly to a purchaser or prospective  
7 purchaser of a particular contract of insurance concerning any  
8 of the substantive benefits, terms or conditions of the  
9 contract; provided that the person engaged in that act either  
10 sells insurance or obtains insurance from insurers for  
11 purchasers;

12 M. "personal lines insurance producer" means a  
13 general lines producer who is limited to transacting business  
14 related to property and casualty insurance sold to individuals  
15 and families for noncommercial purposes;

16 N. "reinstatement" means reestablishment of a  
17 licensee's authority to transact insurance after a lapse of  
18 that authority that restores the licensee's authority to the  
19 same scope and condition that pertained to that authority  
20 before the lapse;

21 ~~[M.]~~ O. "sell" means to exchange a contract of  
22 insurance by any means, for money or its equivalent, on behalf  
23 of an insurer;

24 ~~[N.]~~ P. "solicit" means attempting to sell insurance  
25 or asking or urging a person to apply for a particular kind of

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1 insurance from a particular insurer;

2 [P-] Q. "terminate" means to cancel the relationship  
3 between an insurance producer and the insurer or to terminate  
4 an insurance producer's authority to transact insurance;

5 [P-] R. "uniform application" means the current  
6 version of the national association of insurance commissioners  
7 uniform application for resident and nonresident insurance  
8 producer licensing; and

9 [Q-] S. "uniform business entity application" means  
10 the current version of the national association of insurance  
11 commissioners uniform business entity application for resident  
12 and nonresident business entities."

13 **SECTION 8.** Section 59A-12-3 NMSA 1978 (being Laws 1984,  
14 Chapter 127, Section 203, as amended) is amended to read:

15 "59A-12-3. "BROKER" [~~AND "SERVICE REPRESENTATIVE"~~]  
16 DEFINED.--For the purpose of the Insurance Code [A-], a  
17 "broker" is a type of insurance producer who, not being an  
18 agent of the insurer, as an independent contractor and on  
19 behalf of the insured solicits, negotiates or procures  
20 insurance or annuity contracts or renewal or continuation  
21 thereof for insureds or prospective insureds other than the  
22 broker. "Broker" does not include a surplus line broker, as  
23 defined in Chapter 59A, Article 14 NMSA 1978 [~~and~~

24 ~~B. "Service representative" means an individual,~~  
25 ~~regularly employed on salary by an insurer, group of insurers~~

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1 ~~or managing general agent, who assists insurance producers in~~  
2 ~~soliciting, negotiating and effectuating insurance for such~~  
3 ~~insurer, group or managing general agent and, in conduct of~~  
4 ~~their business, receives no part of the commission on insurance~~  
5 ~~written. A service representative is not required to be~~  
6 ~~licensed, nor shall the service representative independently~~  
7 ~~solicit or negotiate insurance or annuity contracts]."~~

8 SECTION 9. Section 59A-12-16 NMSA 1978 (being Laws 1984,  
9 Chapter 127, Section 217, as amended) is amended to read:

10 "59A-12-16. EXAMINATION FOR LICENSE.--

11 A. A resident individual applying for an insurance  
12 producer license shall, prior to issuance of license,  
13 personally take and pass a written examination. The  
14 examination shall test the knowledge of the individual  
15 concerning the lines of authority for which application is  
16 made, the duties and responsibilities of an insurance producer  
17 and the insurance laws and rules of this state. Examinations  
18 required by this section shall be developed and conducted under  
19 rules prescribed by the superintendent.

20 B. The superintendent may contract with an outside  
21 testing service for administering examinations and collecting  
22 the nonrefundable fee set forth in Section 59A-6-1 NMSA 1978.

23 C. Each individual applying for an examination shall  
24 remit a nonrefundable fee as prescribed by the superintendent  
25 as set forth in Section 59A-6-1 NMSA 1978.

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1           D. An individual who fails to appear for the  
2 examination as scheduled or fails to pass the examination shall  
3 reapply for an examination and remit all required fees and  
4 forms before being rescheduled for another examination.

5           E. No examination shall be required:

6                 (1) for renewal or continuance of an existing  
7 license, except as provided in Subsection D of Section  
8 59A-11-10 NMSA 1978;

9                 (2) of an applicant for limited license as  
10 provided in Section 59A-12-18 NMSA 1978;

11                (3) of applicants with respect to life and  
12 annuities or accident and health insurances who hold the  
13 chartered life underwriter designation by the American college  
14 of financial services;

15                (4) of applicants with respect to property and  
16 casualty insurance who hold the designation of chartered  
17 property and casualty underwriter designation by the American  
18 institute for chartered property casualty underwriters;

19                (5) of applicants for temporary license as  
20 provided for in Section 59A-12-19 NMSA 1978;

21                (6) of an applicant for a license covering the  
22 same kind or kinds of insurance as to which licensed in this  
23 state under a similar license within [~~five years~~] one year  
24 preceding date of application for the new license, unless the  
25 previous license was suspended, revoked or continuation thereof

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1 refused by the superintendent;

2 (7) of an applicant for insurance producer  
3 license, if the applicant took and passed a similar examination  
4 in a state in which already licensed, subject to Section  
5 59A-5-33 NMSA 1978; or

6 (8) of an applicant for self-service storage  
7 insurance producer license.

8 F. An individual who applies for an insurance  
9 producer license in this state who was previously licensed for  
10 the same lines of authority in another state shall not be  
11 required to take an examination. This exemption is only  
12 available if the person is currently licensed in that state or  
13 if the application is received within ninety days of the  
14 cancellation of the applicant's previous license and if the  
15 prior state issues a certification that, at the time of  
16 cancellation, the applicant was in good standing in that state  
17 or the state's insurance producer database records, maintained  
18 by the national association of insurance commissioners, its  
19 affiliates or subsidiaries, indicate that the insurance  
20 producer is or was licensed in good standing for the line of  
21 authority requested.

22 G. A person licensed as an insurance producer in  
23 another state who moves to this state shall apply within ninety  
24 days of establishing legal residence to become a resident  
25 insurance producer. No examination shall be required of that

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1 person to obtain any line of authority previously held in the  
2 prior state except where the superintendent determines  
3 otherwise by rule."

4 SECTION 10. Section 59A-13-8 NMSA 1978 (being Laws 1984,  
5 Chapter 127, Section 236, as amended) is amended to read:

6 "59A-13-8. POWERS CONFERRED BY ADJUSTER LICENSE.--An  
7 independent adjuster shall have the powers granted by its  
8 principal to investigate, report upon, adjust and settle claims  
9 on behalf of an insurer or self insurer and have additional  
10 powers as to claims and losses as may be conferred by the  
11 principal. A staff adjuster shall have only such powers with  
12 respect to claims and losses as granted by the adjuster's  
13 employer or affiliates of the adjuster's employer. [A  
14 ~~temporary adjuster shall, as to claims and losses, have the~~  
15 ~~powers of the employer, subject to extension or limitation by~~  
16 ~~contract.]"~~

17 SECTION 11. A new Section 59A-16-5.1 NMSA 1978 is enacted  
18 to read:

19 "59A-16-5.1. [NEW MATERIAL] ADVERTISING--FILINGS--  
20 REVIEW.--

21 A. No insurer, health plan or producer shall use any  
22 advertising to solicit, or generate interest in, an insurance  
23 product or health plan unless the advertising has been filed  
24 with and approved by the superintendent. An advertising filed  
25 with, but not affirmatively approved or disapproved by the

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1 superintendent within sixty days of the filing, shall be deemed  
2 approved.

3 B. The superintendent, by rule, order or bulletin,  
4 may require any entity subject to the superintendent's  
5 jurisdiction to file for informational purposes, or for prior  
6 approval, any other types of promotional materials that, in the  
7 superintendent's discretion, should also be deemed advertising.

8 C. The superintendent may withdraw approval of an  
9 advertisement upon notice to the filer, who shall have thirty  
10 days from delivery of the notice to request a hearing to  
11 contest the withdrawn approval. The superintendent's notice  
12 shall specify the date after which a withdrawn form shall not  
13 be used.

14 D. The provisions of this section apply to any  
15 product or plan subject to the superintendent's jurisdiction.

16 E. As used in this section, "advertising" means any  
17 standardized consumer-facing promotional material, no matter  
18 how disseminated, that includes information about the terms,  
19 cost, benefits or relative merits of an insurance or health  
20 plan product, but does not mean any quote or other customized  
21 information or material that is prepared for presentation to a  
22 specific or proposed insured."

23 SECTION 12. Section 59A-16-15 NMSA 1978 (being Laws 1984,  
24 Chapter 127, Section 281) is amended to read:

25 "59A-16-15. DISCRIMINATION--REBATES AND CERTAIN

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1 INDUCEMENTS PROHIBITED--LIFE, HEALTH AND ANNUITY CONTRACTS.--

2 Except as otherwise expressly provided by law, no person shall  
3 [~~knowingly~~] directly or indirectly, as an inducement to any  
4 contract of life, annuity or health insurance:

5 A. [~~permit to be made or offer to make or make any~~  
6 ~~contract of life insurance, life annuity or health insurance,~~  
7 ~~or agreement as to such contract, other than as plainly~~  
8 ~~expressed in the contract issued, or pay or allow, or give or~~  
9 ~~offer to pay, allow or give, directly or indirectly, or~~  
10 ~~knowingly accept, as an inducement to such insurance or annuity~~  
11 ~~any rebate of premiums payable on the contract, or any special~~  
12 ~~favor or advantage in the dividends or other benefits thereon,~~  
13 ~~or any paid employment or contract for services of any kind,~~  
14 ~~or~~ [~~any valuable consideration or inducement whatever not~~  
15 ~~specified in the contract~~] offer, pay or accept any special  
16 favor or advantage, any rebate of premiums or any valuable  
17 consideration or promise whatsoever; or

18 B. [~~directly or indirectly give or sell or purchase~~  
19 ~~or offer or agree to give, sell, purchase, or allow as an~~  
20 ~~inducement to such insurance or annuity or in connection~~  
21 ~~therewith, whether or not to be specified in the policy or~~  
22 ~~contract, any agreement of any form or nature promising returns~~  
23 ~~and profits, or any stocks, bonds or other securities, or~~  
24 ~~interest present or contingent therein or as measured thereby,~~  
25 ~~of any insurer or other person, or any dividends or profits~~

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1 ~~accrued or to accrue thereon~~ promise any returns or profits,  
2 interest or dividends, whether or not specified in the  
3 contract."

4 SECTION 13. Section 59A-16-16 NMSA 1978 (being Laws 1984,  
5 Chapter 127, Section 282) is amended to read:

6 "59A-16-16. EXCEPTIONS TO DISCRIMINATION, REBATE AND  
7 INDUCEMENT PROHIBITION--LIFE, HEALTH AND ANNUITY CONTRACTS.--

8 A. Nothing in [~~Sections 279 or 281 of this article~~]  
9 Section 59A-16-11 or 59A-16-15 NMSA 1978 shall be construed as  
10 including within the definition of discrimination or rebates  
11 any of the following practices:

12 (1) in the case of any contract of life  
13 insurance or life annuity, paying bonuses to policyholders or  
14 otherwise abating their premiums in whole or in part out of  
15 surplus accumulated from nonparticipating insurance, provided  
16 that any such bonuses or abatement of premiums shall be fair  
17 and equitable to policyholders and for the best interests of  
18 the insurer and its policyholders;

19 (2) in the case of life insurance policies  
20 issued on the industrial or debit plan, making allowance, in an  
21 amount which fairly [~~represents~~] represents the saving in  
22 collection expense, to policyholders who have continuously for  
23 a specified period made premium payments directly to an office  
24 of the insurer;

25 (3) readjusting the rate of premiums for a group

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1 insurance policy based on the loss or expense experience  
2 thereunder, at the end of the first or any subsequent policy  
3 year of insurance thereunder, which may be made retroactive  
4 only for such policy year;

5 (4) reducing the premium rate for policies of  
6 large amounts, but not exceeding savings in issuance and  
7 administration expenses reasonably attributable to such  
8 policies as compared with policies of similar plan issued in  
9 smaller amounts;

10 (5) reducing the premium rates for life or  
11 health insurance policies or annuity contracts on salary  
12 savings, payroll deduction, preauthorized check, bank draft or  
13 similar plans in amounts reasonably commensurate with the  
14 savings made by the use of such plans; ~~[or]~~

15 (6) extending credit for the payment of any  
16 premium, and for which credit a reasonable rate of interest is  
17 charged and collected; or

18 (7) offering or providing any value-added  
19 product or service in conformance with Subsection G of Section  
20 59A-16-17 NMSA 1978.

21 B. Nothing in ~~[this article]~~ Chapter 59A, Article 16  
22 NMSA 1978 shall be construed as including within the definition  
23 of securities as inducements to purchase insurance the selling  
24 or offering for sale, contemporaneously with life insurance, of  
25 mutual fund shares or face amount certificates of regulated

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1 investment companies under offerings registered with the  
2 securities and exchange commission where such shares or such  
3 face amount certificates or such insurance may be purchased  
4 independently of and not contingent upon purchase of the other,  
5 at the same price and upon similar terms and conditions as  
6 where purchased independently."

7 SECTION 14. Section 59A-16-17 NMSA 1978 (being Laws 1984,  
8 Chapter 127, Section 283, as amended) is amended to read:

9 "59A-16-17. ~~[UNFAIR]~~ DISCRIMINATION, REBATES AND CERTAIN  
10 INDUCEMENTS PROHIBITED--OTHER COVERAGES.--

11 A. ~~[No property, casualty or title insurer, or~~  
12 ~~nonprofit health care or prepaid dental plan or other~~  
13 ~~insurance-type organization, or any employee or representative~~  
14 ~~thereof, and no insurance producer or other representative~~  
15 ~~shall pay, allow or give, or offer to pay, allow or give,~~  
16 ~~directly or indirectly, as an inducement to insurance or~~  
17 ~~coverage, or after insurance or coverage has been effected, any~~  
18 ~~rebate, discount, abatement, credit or reduction of the premium~~  
19 ~~named in a policy, or any special favor or advantage in the~~  
20 ~~dividends or other benefits to accrue thereon, or any valuable~~  
21 ~~consideration or inducement whatever, not specified or provided~~  
22 ~~for in the policy]~~ No person subject to the superintendent's  
23 jurisdiction shall induce or attempt to induce another person  
24 to enter into or continue a contract of insurance by directly  
25 or indirectly offering to pay or accept any special favor or

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1 advantage, any rebate of premiums or any valuable consideration  
2 or promise whatsoever not specified in the insurance contract,  
3 except to the extent provided for in an applicable filing with  
4 the superintendent as provided by law or as allowed by this  
5 section.

6 B. No title insurer or title insurance producer  
7 shall:

8 (1) pay, directly or indirectly, to the insured  
9 or any person acting as agent, representative, attorney or  
10 employee of the owner, lessee, mortgagee, existing or  
11 prospective, of the real property, or interest therein, that is  
12 the subject matter of title insurance or as to which a service  
13 is to be performed any commission or part of its fee or charges  
14 or other consideration as inducement or compensation for the  
15 placing of any order for a title insurance policy or for  
16 performance of any escrow or other service by the insurer with  
17 respect thereto;

18 (2) issue any policy or perform any service in  
19 connection with which it or any insurance producer or other  
20 person has paid or contemplates paying any commission, rebate  
21 or inducement in violation of this section;

22 (3) give or receive, directly or indirectly, any  
23 consideration or thing of value for the referral of title  
24 insurance business or escrow or other service provided by a  
25 title insurer or title insurance producer unless otherwise

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1 permitted by regulation of the superintendent; or

2 (4) enter into a reinsurance agreement with an  
3 affiliate of a real estate developer, real estate agency,  
4 mortgage lender or referrer of title business without the prior  
5 written approval of the superintendent.

6 C. No insured named in a policy or any employee of  
7 such insured shall knowingly receive or accept, directly or  
8 indirectly, any rebate, discount, abatement, credit or  
9 reduction of premium, or any special favor or advantage or  
10 valuable consideration or inducement, except as allowed by this  
11 section.

12 D. No insurer or organization shall make or permit  
13 any unfair discrimination between insureds or property having  
14 like insuring or risk characteristics, in the premium or rates  
15 charged for insurance or coverage, or in the dividends or other  
16 benefits payable thereon or in any other of the terms and  
17 conditions of the insurance or coverage.

18 E. Nothing in this section shall be construed as  
19 prohibiting the payment of commissions or other compensation to  
20 licensed insurance producers or other representatives; or as  
21 prohibiting the extension of credit to an insured for the  
22 payment of any premium and for which credit a reasonable rate  
23 of interest is charged and collected; or as prohibiting any  
24 insurer or insurance producer from allowing or returning to its  
25 participating policyholders, members or subscribers, dividends,

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1 savings or unabsorbed premium deposits. As to title insurance,  
2 nothing in this section shall prohibit bulk rates or special  
3 rates for customers of prescribed classes if such bulk or  
4 special rates are provided for in the currently effective  
5 schedule of fees and charges of the title insurer as filed with  
6 the superintendent.

7 F. The provisions of this section shall not prohibit  
8 a property or casualty insurer, or any employee or  
9 representative thereof, or a property or casualty insurance  
10 producer or other representative thereof from providing to  
11 customers or prospective customers prizes and gifts, including  
12 goods, gift cards, gift certificates, charitable donations,  
13 raffle entries, meals, event tickets and other items not  
14 exceeding one hundred dollars (\$100) in the aggregate in value  
15 per customer or prospective customer in any one calendar year.

16 G. A person subject to the superintendent's  
17 jurisdiction may offer or provide value-added products or  
18 services at no or reduced cost, even when such products or  
19 services are not specified in the insurance contract, if the  
20 product or service:

21 (1) relates to the insurance coverage;

22 (2) is offered at a cost that is reasonable in  
23 comparison to the insured's or prospective insured's premiums;

24 (3) has its availability based on documented  
25 objective evidence and offered in a manner that is not unfairly

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1 discriminatory; and

2 (4) is primarily designed to:

3 (a) provide loss mitigation or loss control;

4 (b) reduce claim costs or claim settlement  
5 costs;

6 (c) monitor or assess risk, identify sources  
7 of risk or develop strategies for eliminating or reducing risk;

8 (d) enhance health;

9 (e) enhance financial wellness through items  
10 such as education or financial planning services;

11 (f) provide post-loss services;

12 (g) incentivize behavioral changes to  
13 improve the health or reduce the risk of death or disability of  
14 an insured or prospective insured;

15 (h) assist in the administration of employee  
16 or retiree benefit insurance coverage; or

17 (i) provide education about liability risks  
18 or risk of loss to persons or property.

19 H. Prior to offering or providing a value-added  
20 product or service, a person shall file with the superintendent  
21 a request to approve the offer or benefit. Any such filing  
22 that has not been denied within sixty days shall be deemed  
23 approved."

24 SECTION 15. Section 59A-16-21 NMSA 1978 (being Laws 1984,  
25 Chapter 127, Section 287, as amended by Laws 2017, Chapter 15,  
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1 Section 1 and by Laws 2017, Chapter 130, Section 12) is amended  
2 to read:

3 "59A-16-21. PAYMENT OF CLAIM BY CHECK, DRAFT OR  
4 ELECTRONIC TRANSFER--FAILURE TO PAY--INTEREST.--

5 A. An insurer shall pay promptly claims arising under  
6 its policies with checks or drafts, or, if a claimant requests,  
7 may pay by electronic transfer of funds. Without amending  
8 other statutes dealing with checks, drafts or electronic  
9 transfer of funds, a resident of New Mexico is granted a cause  
10 of action for ten percent of the amount of any check, draft or  
11 electronic transfer of funds that is not paid or lawfully  
12 rejected within ten days of forwarding by a New Mexico  
13 financial institution, but in no case to be less than five  
14 hundred dollars (\$500) plus costs of suit and attorney fees.  
15 The insurer shall not be required to pay such civil damages for  
16 delay if it proves that the delay in processing and payment was  
17 caused by a financial institution or postal or delivery service  
18 and the check, draft or electronic transfer of funds was paid  
19 or lawfully rejected within forty-eight hours of actual receipt  
20 of the draft, check or electronic transfer of funds by the  
21 person on whom drawn.

22 B. Notwithstanding any provision of the Insurance  
23 Code, any insurer issuing any policy, certificate or contract  
24 of insurance, surety, guaranty or indemnity of any kind or  
25 nature that fails for a period of forty-five days, after

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1 required proof of loss has been furnished, to pay to the person  
2 entitled the amount justly due shall be liable for the amount  
3 due and unpaid with interest on that amount at the rate of one  
4 and one-half times the prime lending rate [~~as determined by the~~  
5 ~~superintendent~~] for New Mexico banks [~~per year~~] during the  
6 period the claim is unpaid. Interest shall accrue, and the  
7 interest rate shall be determined, as of the date the proof of  
8 loss was furnished.

9 C. Subsection B of this section shall not apply to  
10 any claims in arbitration or litigation."

11 SECTION 16. Section 59A-18-1 NMSA 1978 (being Laws 1984,  
12 Chapter 127, Section 331, as amended) is amended to read:

13 "59A-18-1. SCOPE OF ARTICLE.--Chapter 59A, Article 18  
14 NMSA 1978 applies as to all insurance policies and annuity  
15 contracts of authorized insurers covering individuals resident,  
16 or risks located, or insurance protection to be rendered in  
17 this state, other than:

18 A. reinsurance;

19 B. policies or contracts not issued for delivery in  
20 this state nor delivered in this state, except for contracts  
21 for or endorsements of workers' compensation insurance when the  
22 workers' compensation risk insured arises from the employment  
23 of a worker performing work for an employer in New Mexico and  
24 that employer is not domiciled in New Mexico;

25 C. wet marine and transportation insurance [~~as~~

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1 ~~defined in Section 59A-7-5 NMSA 1978~~]; or

2 D. surplus lines insurance contracts, unless such  
3 contracts are specifically included by rule."

4 SECTION 17. Section 59A-18-22 NMSA 1978 (being Laws 1984,  
5 Chapter 127, Section 351) is amended to read:

6 "59A-18-22. BINDERS.--

7 A. While acting within the scope of authority granted  
8 by the insurer, binders or other contracts for temporary  
9 insurance may be made by ~~[an agent]~~ a producer orally or in  
10 writing, and shall be deemed to include all the usual terms of  
11 the policy as to which the binder was given together with such  
12 applicable endorsements as are designated in the binder, except  
13 as superseded by the clear and express terms of the binder.

14 B. No binder shall be valid beyond the issuance of  
15 the policy as to which given, or beyond ninety ~~[90]~~ days for  
16 written binders, fifteen days for oral, from its effective  
17 date, whichever period is the shorter.

18 C. If the policy has not been issued, a binder may be  
19 extended or renewed beyond such ninety ~~[90]~~ or fifteen days  
20 with the written approval of the insurer.

21 D. This section shall not apply as to life or health  
22 insurances; and binders under the standard fire policy are  
23 governed by Section 492 of the Insurance Code and not by this  
24 section."

25 SECTION 18. Section 59A-18-29 NMSA 1978 (being Laws 1984,

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1 Chapter 127, Section 358) is amended to read:

2 "59A-18-29. CANCELLATION OF CERTAIN POLICIES.--

3 A. An insurer or agent may at any time cancel a  
4 policy for nonpayment of premium [~~thereon~~] when due, whether  
5 the premium is payable directly to the insurer or agent or  
6 indirectly under any premium financing plan or extension of  
7 credit. The insurer or agent shall give the named insured  
8 written notice of [~~such~~] the cancellation not less than ten  
9 [~~(10)~~] days prior to the effective date of the cancellation.

10 B. An insurer may cancel its policy without cause at  
11 any time within sixty [~~(60)~~] days [~~next~~] following original  
12 issuance and effective date of the policy. The insurer shall  
13 give the named insured written notice of [~~such~~] the  
14 cancellation not less than ten [~~(10)~~] days prior to the  
15 effective date of the cancellation, which effective date shall  
16 fall within [~~such~~] the sixty- [~~(60)~~] day period.

17 C. Subject to Subsection A [~~above~~] of this section,  
18 after expiration of the sixty- [~~(60)~~] day period referred to in  
19 Subsection B of this section, an insurer or agent shall not  
20 cancel except for reasonable cause such policies and for such  
21 causes, and with advance notice of cancellation for such period  
22 of time, as may from time to time be provided by rules and  
23 regulations of the superintendent. Such rules and regulations  
24 may also require that statement of the reasons for [~~such~~]  
25 cancellation be contained in the notice of cancellation given

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1 to specified persons.

2 D. Notice of cancellation [~~may~~] shall be given using  
3 any communication method authorized by the named insured, and  
4 by personal delivery to the named insured or by mailing the  
5 notice postage-paid addressed to the named insured at [~~his~~] the  
6 address last of record with the insurer. Notice so mailed  
7 shall be deemed given when deposited in a mail depository of  
8 the United States post office.

9 E. There shall be no liability on the part of and no  
10 cause of action shall arise against [~~any~~] an insurer or other  
11 person for furnishing information as to reasons for  
12 cancellation or for [~~any~~] a statement made or information given  
13 pursuant to this section.

14 F. This section shall not apply as to life insurance  
15 or annuity contracts, health insurance contracts, title  
16 insurance, inland marine insurance contracts, or to [~~any~~] an  
17 insurance policy [~~which~~] that by its terms is not cancellable  
18 during the term of the policy at the option of the insurer."

19 SECTION 19. Section 59A-22-2 NMSA 1978 (being Laws 1984,  
20 Chapter 127, Section 423) is amended to read:

21 "59A-22-2. FORM AND CONTENT OF POLICY.--No policy of  
22 individual health insurance shall be delivered or issued for  
23 delivery in this state unless:

24 A. the entire money and other considerations therefor  
25 are expressed therein; [~~and~~]

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1           B. the time at which insurance takes effect and  
2 terminates is expressed therein; ~~[and]~~

3           C. it purports to insure only one person, except as  
4 provided in Chapter 59A, Article 23 ~~[of the Insurance Code]~~  
5 NMSA 1978, and except that a policy or contract may be issued  
6 upon application of the head of a family, who shall be deemed  
7 the policyholder, covering members of any one family, including  
8 husband, wife, dependent children or any children under the age  
9 of ~~[nineteen-(19)]~~ twenty-six and other dependents living with  
10 the family; ~~[and]~~

11           D. every printed portion of the text matter and of  
12 any endorsements or attached papers shall be printed in uniform  
13 type of which the face shall be not less than ten ~~[(10)]~~ point  
14 (the "text" shall include all printed matter except the name  
15 and address of the insurer, name and title of the policy,  
16 captions, subcaptions and form numbers), but notwithstanding  
17 any provision of this law, the superintendent shall not  
18 disapprove any such policy on the ground that every printed  
19 portion of its text matter or of any endorsement or attached  
20 paper is not printed in uniform type if it shall be shown that  
21 the type used is required to conform to the laws of another  
22 state in which the insurer is authorized; ~~[and]~~

23           E. the exceptions and reductions of indemnity are  
24 adequately captioned and clearly set forth in the policy or  
25 contract; ~~[and]~~

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1 F. each such form, including riders and endorsements,  
2 shall be identified by a form number and consecutive page  
3 numbers in the lower left-hand corner of [~~the first~~] each page;  
4 [~~thereof~~] and

5 G. if any policy is issued by an insurer domiciled in  
6 this state for delivery to a person residing in another state,  
7 and if the official having responsibility for the  
8 administration of insurance laws of such other state shall have  
9 advised the superintendent that any such policy is not subject  
10 to approval or disapproval by such official, the superintendent  
11 may by ruling require that such policy meet the standards set  
12 forth in Sections [~~424 through 446 of this article~~] 59A-22-3  
13 through 59A-22-25 NMSA 1978."

14 SECTION 20. Section 59A-22-30.1 NMSA 1978 (being Laws  
15 2005, Chapter 41, Section 1) is amended to read:

16 "59A-22-30.1. MAXIMUM AGE OF DEPENDENT.--An individual or  
17 group health policy or certificate of insurance delivered,  
18 issued for delivery or renewed in New Mexico that provides  
19 coverage for an insured's dependent shall not terminate  
20 coverage of an unmarried dependent by reason of the dependent's  
21 age before the dependent's [~~twenty-fifth~~] twenty-sixth  
22 birthday, regardless of whether the dependent is enrolled in an  
23 educational institution."

24 SECTION 21. Section 59A-22-33 NMSA 1978 (being Laws 1984,  
25 Chapter 127, Section 455) is amended to read:

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1           "59A-22-33. [~~HANDICAPPED~~] CHILDREN WITH DISABILITIES--  
2 COVERAGE CONTINUED.--An individual or group hospital or medical  
3 expense insurance policy delivered or issued for delivery in  
4 this state [~~which~~] that provides that coverage of a dependent  
5 child of an insured, or of an employee or other member of the  
6 covered group, shall terminate upon attainment of the limiting  
7 age for dependent children specified in the policy shall also  
8 provide, in substance, that attainment of the limiting age  
9 shall not operate to terminate the coverage of a child while  
10 the child is, and continues to be both incapable of self-  
11 sustaining employment, by reason of [~~mental retardation~~]  
12 intellectual or developmental disability or physical [~~handicap~~]  
13 disability, and chiefly dependent upon the policyholder for  
14 support and maintenance. However, proof of the incapacity and  
15 dependency of the child must be furnished to the insurer by the  
16 insured employee or member within thirty-one [~~(31)~~] days of the  
17 child's attainment of the limiting age and subsequently, as may  
18 be required by the insurer, but not more frequently than  
19 annually after the two-year period following the child's  
20 attainment of the limiting age."

21           SECTION 22. Section 59A-22-40.1 NMSA 1978 (being Laws  
22 2007, Chapter 278, Section 1) is amended to read:

23           "59A-22-40.1. COVERAGE FOR THE HUMAN PAPILLOMAVIRUS  
24 VACCINE.--

25           A. An individual or group health insurance policy,  
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1 health care plan or certificate of health insurance that is  
2 delivered, issued for delivery or renewed in this state shall  
3 provide coverage for the human papillomavirus vaccine [~~to~~  
4 ~~females nine to fourteen years of age~~] in accordance with the  
5 current standards of the federal centers for disease control  
6 and prevention.

7 B. Coverage for the human papillomavirus vaccine may  
8 be subject to deductibles and coinsurance consistent with those  
9 imposed on other benefits under the same policy, plan or  
10 certificate.

11 C. The provisions of this section shall not apply to  
12 short-term travel, accident-only or limited or specified  
13 disease policies.

14 D. For the purposes of this section, "human  
15 papillomavirus vaccine" means a vaccine approved by the federal  
16 food and drug administration used for the prevention of human  
17 papillomavirus infection and cervical precancers."

18 SECTION 23. Section 59A-22-41.1 NMSA 1978 (being Laws  
19 2003, Chapter 192, Section 1) is amended to read:

20 "59A-22-41.1. COVERAGE FOR MEDICAL DIETS FOR GENETIC  
21 INBORN ERRORS OF METABOLISM.--

22 A. As of July 1, 2003, each individual and group  
23 health insurance policy, health care plan, certificate of  
24 health insurance and managed health care plan delivered, issued  
25 for delivery, renewed, extended or modified in this state shall

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1 provide coverage for the treatment of genetic inborn errors of  
2 metabolism that involve amino acid, carbohydrate and fat  
3 metabolism and for which medically standard methods of  
4 diagnosis, treatment and monitoring exist.

5 B. Coverage shall include expenses of diagnosing,  
6 monitoring and controlling disorders by nutritional and medical  
7 assessment, including clinical services, biochemical analysis,  
8 medical supplies, prescription drugs, corrective lenses for  
9 conditions related to the genetic inborn error of metabolism,  
10 nutritional management and special medical foods used in  
11 treatment to compensate for the metabolic abnormality and to  
12 maintain adequate nutritional status.

13 C. Services required to be covered pursuant to this  
14 section are subject to the terms and conditions of the  
15 applicable individual or group policy or plan that establishes  
16 durational limits, dollar limits, deductibles and co-payments  
17 as long as the terms are not less favorable than for physical  
18 illness generally.

19 D. As used in this section:

20 (1) "genetic inborn error of metabolism" means a  
21 rare, inherited disorder that:

22 (a) is present at birth;

23 (b) if untreated, results in ~~[mental~~  
24 ~~retardation]~~ intellectual or developmental disability or death;  
25 and

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1 (c) causes the necessity for consumption of  
2 special medical foods;

3 (2) "special medical foods" means nutritional  
4 substances in any form that are:

5 (a) formulated to be consumed or  
6 administered internally under the supervision of a physician;

7 (b) specifically processed or formulated to  
8 be distinct in one or more nutrients present in natural food;

9 (c) intended for the medical and nutritional  
10 management of patients with limited capacity to metabolize  
11 ordinary foodstuffs or certain nutrients contained in ordinary  
12 foodstuffs or who have other specific nutrient requirements as  
13 established by medical evaluation; and

14 (d) essential to optimize growth, health and  
15 metabolic homeostasis; and

16 (3) "treatment" means medical services provided  
17 by licensed health care professionals, including physicians,  
18 dietitians and nutritionists, with specific training in  
19 managing patients diagnosed with genetic inborn errors of  
20 metabolism."

21 SECTION 24. Section 59A-22-50 NMSA 1978 (being Laws 2010,  
22 Chapter 94, Section 1, as amended) is amended to read:

23 "59A-22-50. HEALTH INSURERS--DIRECT SERVICES.--

24 A. A health insurer shall ~~[make reimbursement for~~  
25 ~~direct services at a level not less than eighty-five percent of~~

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1 ~~premiums across all health product lines, including short-term~~  
2 ~~plans and excluding individually underwritten health insurance~~  
3 ~~policies, contracts or plans, that are governed by the~~  
4 ~~provisions of Chapter 59A, Article 22 NMSA 1978, the Health~~  
5 ~~Maintenance Organization Law and the Nonprofit Health Care Plan~~  
6 ~~Law, and an excepted benefit policy intended to supplement~~  
7 ~~major medical coverage, including medicare supplement, vision,~~  
8 ~~dental, disease-specific, accident-only or hospital indemnity-~~  
9 ~~only insurance policies, or a plan that only issues policies~~  
10 ~~for long-term care or disability income. Reimbursement shall~~  
11 ~~be made for direct services provided over the preceding three~~  
12 ~~calendar years, but not earlier than calendar year 2010, as~~  
13 ~~determined by reports filed with the office of superintendent~~  
14 ~~of insurance. Nothing in this subsection shall be construed to~~  
15 ~~preclude a purchaser from negotiating an agreement with a~~  
16 ~~health insurer that requires a higher amount of premiums paid~~  
17 ~~to be used for reimbursement for direct services for one or~~  
18 ~~more products or for one or more years] reimburse direct~~  
19 services as follows:

20 (1) for small groups, at no less than eighty  
21 percent of aggregate premiums for all such products; and

22 (2) for large groups, at no less than  
23 eighty-five percent of aggregate premiums for all such  
24 products.

25 B. Reimbursement for direct services shall be

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1 determined based on services provided over the preceding three  
2 calendar years, but not earlier than calendar year 2010, as  
3 determined by reports filed with the office of superintendent  
4 of insurance. Reimbursement calculations shall include  
5 short-term plans, but exclude all other excepted benefits plans  
6 governed by the provisions of Chapter 59A, Article 23G NMSA  
7 1978.

8           ~~[B.]~~ C. For individually underwritten health care  
9 policies, plans or contracts, the superintendent shall  
10 establish, after notice and informal hearing, the level of  
11 reimbursement for direct services, as determined by the reports  
12 filed with the office of superintendent of insurance, as a  
13 percent of premiums. Additional informal hearings may be held  
14 at the superintendent's discretion. In establishing the level  
15 of reimbursement for direct services, the superintendent shall  
16 consider the costs associated with the individual marketing and  
17 medical underwriting of these policies, plans or contracts at a  
18 level not less than seventy-five percent of premiums. A health  
19 insurer writing these policies shall make reimbursement for  
20 direct services at a level not less than that level established  
21 by the superintendent pursuant to this subsection over the  
22 three calendar years preceding the date upon which that rate is  
23 established, but not earlier than calendar year 2010. Nothing  
24 in this subsection shall be construed to preclude a purchaser  
25 of one of these policies, plans or contracts from negotiating

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1 an agreement with a health insurer that requires a higher  
2 amount of premiums paid to be used for reimbursement for direct  
3 services.

4 ~~[G.]~~ D. An insurer that fails to comply with the  
5 reimbursement requirements pursuant to this section shall issue  
6 a dividend or credit against future premiums to all  
7 policyholders in an amount sufficient to ensure that the  
8 benefits paid in the preceding three calendar years plus the  
9 amount of the dividends or credits are equal to the required  
10 direct services reimbursement level pursuant to Subsection A of  
11 this section for group health coverage and blanket health  
12 coverage or the required direct services reimbursement level  
13 pursuant to Subsection B of this section for individually  
14 underwritten health policies, contracts or plans for the  
15 preceding three calendar years. If the insurer fails to issue  
16 the dividend or credit in accordance with the requirements of  
17 this section, the superintendent shall enforce these  
18 requirements and may pursue any other penalties as provided by  
19 law, including general penalties pursuant to Section 59A-1-18  
20 NMSA 1978.

21 ~~[D.]~~ E. After notice and hearing, the superintendent  
22 may adopt and promulgate reasonable rules necessary and proper  
23 to carry out the provisions of this section.

24 ~~[E.]~~ F. For the purposes of this section:

25 (1) "direct services" means services rendered to

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1 an individual by a health insurer or a health care  
2 practitioner, facility or other provider, including case  
3 management, disease management, health education and promotion,  
4 preventive services, quality incentive payments to providers  
5 and any portion of an assessment that covers services rather  
6 than administration and for which an insurer does not receive a  
7 tax credit pursuant to the Medical Insurance Pool Act;  
8 provided, however, that "direct services" does not include care  
9 coordination, utilization review or management or any other  
10 activity designed to manage utilization or services;

11 (2) "health insurer" means a person duly  
12 authorized to transact the business of health insurance in the  
13 state pursuant to the Insurance Code, including a person that  
14 issues a short-term plan and a person that only issues an  
15 excepted benefit policy intended to supplement major medical  
16 coverage, including medicare supplement, vision, dental,  
17 disease-specific, accident-only or hospital indemnity-only  
18 insurance policies, or that only issues policies for long-term  
19 care or disability income;

20 (3) "premium" means all income received from  
21 individuals and private and public payers or sources for the  
22 procurement of health coverage, including capitated payments,  
23 self-funded administrative fees, self-funded claim  
24 reimbursements, recoveries from third parties or other insurers  
25 and interests less any tax paid pursuant to the Insurance

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1 Premium Tax Act and fees associated with participating in a  
2 health insurance exchange that serves as a clearinghouse for  
3 insurance; and

4 (4) "short-term plan" means a nonrenewable  
5 health benefits plan covering a resident of the state,  
6 regardless of where the plan is delivered, that:

7 (a) has a maximum specified duration of not  
8 more than three months after the effective date of the plan;  
9 [~~and~~]

10 (b) is issued only to individuals who have  
11 not been enrolled in a health benefits plan that provides the  
12 same or similar nonrenewable coverage from any health insurance  
13 carrier within the three months preceding enrollment in the  
14 short-term plan; and

15 (c) is not an excepted benefit or  
16 combination of excepted benefits."

17 SECTION 25. Section 59A-22A-3 NMSA 1978 (being Laws 1993,  
18 Chapter 320, Section 61) is amended to read:

19 "59A-22A-3. DEFINITIONS.--As used in the Preferred  
20 Provider Arrangements Law:

21 A. "covered person" means any person on whose behalf  
22 the health care insurer is obligated to pay for or to provide  
23 health benefit services;

24 B. "covered services" means health care services  
25 which the health care insurer is obligated to pay for or to

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1 provide under a health benefit plan;

2 C. "emergency care" means ~~[covered services delivered~~  
3 ~~to a covered person after the sudden onset of a medical~~  
4 ~~condition manifesting itself by acute symptoms that are severe~~  
5 ~~enough that:~~

6 (1) ~~the lack of immediate medical attention~~  
7 ~~could result in:~~

8 (a) ~~placing the person's health in jeopardy;~~

9 (b) ~~serious impairment of bodily functions;~~

10 or

11 (c) ~~serious dysfunction of any bodily organ~~  
12 ~~or part; or~~

13 (2) ~~a reasonable person believes that immediate~~  
14 ~~medical attention is required]~~ health care procedures,  
15 treatments or services delivered to a covered person after the  
16 sudden onset of what reasonably appears to be a medical  
17 condition that manifests itself by symptoms of sufficient  
18 severity, including severe pain, that the absence of immediate  
19 medical attention could be reasonably expected by a reasonable  
20 layperson to result in jeopardy to a person's health, serious  
21 impairment of bodily functions, serious dysfunction of a bodily  
22 organ or part or disfigurement to a person;

23 D. "health benefit plan" means the health insurance  
24 policy or subscriber agreement between the covered person or  
25 the policyholder and the health care insurer ~~[which]~~ that

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1 defines the covered services and benefit levels available;

2 E. "health care insurer" means any person who  
3 provides health insurance in this state. For the purposes of  
4 the Small Group Rate and Renewability Act, "carrier" or  
5 "insurer" includes a licensed insurance company, a licensed  
6 fraternal benefit society, a prepaid hospital or medical  
7 service plan, a health maintenance organization, a nonprofit  
8 health care organization, a multiple employer welfare  
9 arrangement or any other person providing a plan of health  
10 insurance subject to state insurance regulation;

11 F. "health care provider" means providers of health  
12 care services licensed as required in this state;

13 G. "health care services" means services rendered or  
14 products sold by a health care provider within the scope of the  
15 provider's license. The term includes hospital, medical,  
16 surgical, dental, vision and pharmaceutical services or  
17 products;

18 H. "preferred provider" means a health care provider  
19 or group of providers who have contracted with a health care  
20 insurer to provide specified covered services to a covered  
21 person; and

22 I. "preferred provider arrangement" means a contract  
23 between or on behalf of the health care insurer and a preferred  
24 provider ~~[which]~~ that complies with all the requirements of the  
25 Preferred Provider Arrangements Law."

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1           SECTION 26. Section 59A-23-4 NMSA 1978 (being Laws 1984,  
2 Chapter 127, Section 463, as amended) is amended to read:

3           "59A-23-4. OTHER PROVISIONS APPLICABLE.--

4           A. A blanket or group health insurance policy or  
5 contract shall not contain a provision relative to notice or  
6 proof of loss or the time for paying benefits or the time  
7 within which suit may be brought upon the policy that in the  
8 superintendent's opinion is less favorable to the insured than  
9 would be permitted in the required or optional provisions for  
10 individual health insurance policies as set forth in Chapter  
11 59A, Article 22 NMSA 1978.

12           B. The following provisions of Chapter 59A, Article  
13 22 NMSA 1978 shall also apply as to Chapter 59A, Article 23  
14 NMSA 1978 and blanket and group health insurance contracts:

15                   (1) Section 59A-22-1 NMSA 1978, except  
16 Subsection C of that section; and

17                   (2) Section 59A-22-32 NMSA 1978.

18           C. The following provisions of Chapter 59A, Article  
19 22 NMSA 1978 shall also apply as to group health insurance  
20 contracts:

21                   (1) Section 59A-22-2 NMSA 1978;

22                   (2) Section 59A-22-3 NMSA 1978;

23                   (3) Section 59A-22-4 NMSA 1978;

24                   (4) Section 59A-22-5 NMSA 1978;

25                   (5) Section 59A-22-6 NMSA 1978;

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- 1                   (6) Section 59A-22-7 NMSA 1978;
- 2                   (7) Section 59A-22-8 NMSA 1978;
- 3                   (8) Section 59A-22-9 NMSA 1978;
- 4                   (9) Section 59A-22-10 NMSA 1978;
- 5                   (10) Section 59A-22-11 NMSA 1978;
- 6                   (11) Section 59A-22-12 NMSA 1978;
- 7                   (12) Section 59A-22-13 NMSA 1978;
- 8                   (13) Section 59A-22-14 NMSA 1978;
- 9                   (14) Section 59A-22-25 NMSA 1978;
- 10                  (15) Section 59A-22-28 NMSA 1978;
- 11                  (16) Section 59A-22-29 NMSA 1978;
- 12                  (17) Section 59A-22-32 NMSA 1978;
- 13                  (18) Section 59A-22-32.1 NMSA 1978;
- 14                  [~~(1)~~] (19) Section 59A-22-33 NMSA 1978;
- 15                  [~~(2)~~] (20) Section 59A-22-34 NMSA 1978;
- 16                  [~~(3)~~] (21) Section 59A-22-34.1 NMSA 1978;
- 17                  [~~(4)~~] (22) Section 59A-22-34.3 NMSA 1978;
- 18                  [~~(5)~~] (23) Section 59A-22-35 NMSA 1978;
- 19                  [~~(6)~~] (24) Section 59A-22-36 NMSA 1978;
- 20                  [~~(7)~~] (25) Section 59A-22-39 NMSA 1978;
- 21                  [~~(8)~~] (26) Section 59A-22-39.1 NMSA 1978;
- 22                  [~~(9)~~] (27) Section 59A-22-40 NMSA 1978;
- 23                  [~~(10)~~] (28) Section 59A-22-40.1 NMSA 1978;
- 24                  [~~(11)~~] (29) Section 59A-22-41 NMSA 1978;
- 25                  [~~(12)~~] (30) Section 59A-22-42 NMSA 1978;

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1                    [~~(13)~~] (31) Section 59A-22-43 NMSA 1978; [~~and~~]  
2                    [~~(14)~~] (32) Section 59A-22-44 NMSA 1978; and  
3                    (33) Section 59A-22-50 NMSA 1978."

4                    **SECTION 27.** Section 59A-23-7.3 NMSA 1978 (being Laws  
5                    2003, Chapter 391, Section 3) is amended to read:

6                    "59A-23-7.3. **MAXIMUM AGE OF DEPENDENT.**--Each blanket or  
7                    group health policy or certificate of insurance delivered,  
8                    issued for delivery or renewed in New Mexico on or after July  
9                    1, 2003 that provides coverage for an insured's dependent shall  
10                   not terminate coverage of an unmarried dependent by reason of  
11                   the dependent's age before the dependent's [~~twenty-fifth~~]  
12                   twenty-sixth birthday, regardless of whether the dependent is  
13                   enrolled in an educational institution."

14                   **SECTION 28.** Section 59A-23D-2 NMSA 1978 (being Laws 1995,  
15                   Chapter 93, Section 2, as amended) is amended to read:

16                   "59A-23D-2. **DEFINITIONS.**--As used in the Medical Care  
17                   Savings Account Act:

18                   A. "account administrator" means any of the following  
19                   that administers medical care savings accounts:

20                   (1) a national or state-chartered bank, savings  
21                   and loan association, savings bank or credit union;

22                   (2) a trust company authorized to act as a  
23                   fiduciary in this state;

24                   (3) an insurance company or health maintenance  
25                   organization authorized to do business in this state pursuant



1 to the Insurance Code; or

2 (4) a person approved by the federal secretary  
3 of health and human services;

4 B. "deductible" means the total covered medical  
5 expense an employee or the employee's dependents must pay prior  
6 to any payment by a qualified higher deductible health plan for  
7 a calendar year;

8 C. "department" means the office of superintendent of  
9 insurance;

10 D. "dependent" means:

11 (1) a spouse;

12 (2) an unmarried or unemancipated child of the  
13 employee who is a minor and who is:

14 (a) a natural child;

15 (b) a legally adopted child;

16 (c) a stepchild living in the same household  
17 who is primarily dependent on the employee for maintenance and  
18 support;

19 (d) a child for whom the employee is the  
20 legal guardian and who is primarily dependent on the employee  
21 for maintenance and support, as long as evidence of the  
22 guardianship is evidenced in a court order or decree; or

23 (e) a foster child living in the same  
24 household, if the child is not otherwise provided with health  
25 care or health insurance coverage;

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1 (3) an unmarried child described in  
2 Subparagraphs (a) through (e) of Paragraph (2) of this  
3 subsection who is between the ages of eighteen and twenty-five;  
4 or

5 (4) a child over the age of eighteen who is  
6 incapable of self-sustaining employment by reason of [~~mental~~  
7 ~~retardation~~] intellectual or developmental disability or  
8 physical [~~handicap~~] disability and who is chiefly dependent on  
9 the employee for support and maintenance;

10 E. "eligible individual" means an individual who with  
11 respect to any month:

12 (1) is covered under a qualified higher  
13 deductible health plan as of the first day of that month;

14 (2) is not, while covered under a qualified  
15 higher deductible health plan, covered under a health plan  
16 that:

17 (a) is not a qualified higher deductible  
18 health plan; and

19 (b) provides coverage for a benefit that is  
20 covered under the qualified higher deductible health plan; and

21 (3) is covered by a qualified higher deductible  
22 health plan that is established and maintained by the employer  
23 of the individual or of the spouse of the individual;

24 F. "eligible medical expense" means an expense paid  
25 by the employee for medical care described in Section 213(d) of

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1 the Internal Revenue Code of 1986 that is deductible for  
2 federal income tax purposes to the extent that those amounts  
3 are not compensated for by insurance or otherwise;

4 G. "employee" includes a self-employed individual;

5 H. "employer" includes a self-employed individual;

6 I. "medical care savings account" or "savings  
7 account" means an account established by an employer in the  
8 United States exclusively for the purpose of paying the  
9 eligible medical expenses of the employee or dependent, but  
10 only if the written governing instrument creating the trust  
11 meets the following requirements:

12 (1) except in the case of a rollover  
13 contribution, no contribution will be accepted:

14 (a) unless it is in cash; or

15 (b) to the extent the contribution, when  
16 added to previous contributions to the trust for the calendar  
17 year, exceeds seventy-five percent of the highest annual limit  
18 deductible permitted pursuant to the Medical Care Savings  
19 Account Act;

20 (2) no part of the trust assets will be invested  
21 in life insurance contracts;

22 (3) the assets of the trust will not be  
23 commingled with other property except in a common trust fund or  
24 common investment fund; and

25 (4) the interest of an individual in the balance

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1 in the individual's account is nonforfeitable;

2 J. "program" means the medical care savings account  
3 program established by an employer for employees; and

4 K. "qualified higher deductible health plan" means a  
5 health coverage policy, certificate or contract that provides  
6 for payments for covered health care benefits that exceed the  
7 policy, certificate or contract deductible, that is purchased  
8 by an employer for the benefit of an employee and that has the  
9 following deductible provisions:

10 (1) self-only coverage with an annual deductible  
11 of not less than one thousand five hundred dollars (\$1,500) or  
12 more than two thousand two hundred fifty dollars (\$2,250) and a  
13 maximum annual out-of-pocket expense requirement of three  
14 thousand dollars (\$3,000), not including premiums;

15 (2) family coverage with an annual deductible of  
16 not less than three thousand dollars (\$3,000) or more than four  
17 thousand five hundred dollars (\$4,500) and a maximum annual  
18 out-of-pocket expense requirement of five thousand five hundred  
19 dollars (\$5,500), not including premiums; and

20 (3) preventive care coverage may be provided  
21 within the policies without the preventive care being subjected  
22 to the qualified higher deductibles."

23 SECTION 29. Section 59A-46-30 NMSA 1978 (being Laws 1993,  
24 Chapter 266, Section 29, as amended) is amended to read:

25 "59A-46-30. STATUTORY CONSTRUCTION AND RELATIONSHIP TO

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1 OTHER LAWS.--

2 A. The provisions of the Insurance Code other than  
3 Chapter 59A, Article 46 NMSA 1978 shall not apply to health  
4 maintenance organizations except as expressly provided in the  
5 Insurance Code and that article. To the extent reasonable and  
6 not inconsistent with the provisions of that article, the  
7 following articles and provisions of the Insurance Code shall  
8 also apply to health maintenance organizations and their  
9 promoters, sponsors, directors, officers, employees, agents,  
10 solicitors and other representatives. For the purposes of such  
11 applicability, a health maintenance organization may therein be  
12 referred to as an "insurer":

- 13 (1) Chapter 59A, Article 1 NMSA 1978;
- 14 (2) Chapter 59A, Article 2 NMSA 1978;
- 15 (3) Chapter 59A, Article 4 NMSA 1978;
- 16 (4) Subsection C of Section 59A-5-22 NMSA 1978;
- 17 (5) Sections 59A-6-2 through 59A-6-4 and 59A-6-6  
18 NMSA 1978;
- 19 (6) Chapter 59A, Article 8 NMSA 1978;
- 20 (7) Chapter 59A, Article 10 NMSA 1978;
- 21 [~~(8)~~ ~~Section 59A-12-22 NMSA 1978;~~
- 22 ~~(9)~~ (8) Chapter 59A, Article 16 NMSA 1978;
- 23 (9) the Domestic Abuse Insurance Protection Act;
- 24 (10) the Insurance Fraud Act;
- 25 [~~(10)~~ (11) Chapter 59A, Article 18 NMSA 1978;

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1                    [~~(11)~~] (12) the Policy Language Simplification  
2 Law;

3                    [~~(12)~~] (13) Section 59A-22-14 NMSA 1978;

4                    [~~(13)~~] ~~the Insurance Fraud Act;~~

5                    [~~(14)~~] ~~Section 59A-22-43 NMSA 1978;~~

6                    [~~(15)~~] ~~the Minimum Healthcare Protection Act]~~

7                    (14) the Property and Casualty Insurance

8 Guaranty Law;

9                    (15) the Motor Club Law;

10                    (16) the Health Insurance Portability Act;

11                    [~~(16)~~] (17) Sections 59A-34-2, 59A-34-7 through

12 59A-34-13, 59A-34-17, 59A-34-23, 59A-34-33, 59A-34-36,

13 59A-34-37, 59A-34-40 through 59A-34-42 and 59A-34-44 through

14 59A-34-46 NMSA 1978;

15                    [~~(17)~~] (18) the Insurance Holding Company Law;

16 [~~and~~

17 ~~(18)~~] (19) the Patient Protection Act; and

18 (20) the Surprise Billing Protection Act.

19                    B. Solicitation of enrollees by a health maintenance  
20 organization granted a certificate of authority, or its  
21 representatives, shall not be construed as violating any  
22 provision of law relating to solicitation or advertising by  
23 health professionals, but health professionals shall be  
24 individually subject to the laws, rules and ethical provisions  
25 governing their individual professions.

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1 C. Any health maintenance organization authorized  
2 under the provisions of the Health Maintenance Organization Law  
3 shall not be deemed to be practicing medicine and shall be  
4 exempt from the provisions of laws relating to the practice of  
5 medicine."

6 SECTION 30. Section 59A-46-38.3 NMSA 1978 (being Laws  
7 2003, Chapter 391, Section 5, as amended) is amended to read:

8 "59A-46-38.3. MAXIMUM AGE OF DEPENDENT.--Each individual  
9 or group health maintenance organization contract delivered or  
10 issued for delivery or renewed in New Mexico that provides  
11 coverage for an enrollee's dependents shall not terminate  
12 coverage of an unmarried dependent by reason of the dependent's  
13 age before the dependent's [~~twenty-fifth~~] twenty-sixth  
14 birthday, regardless of whether the dependent is enrolled in an  
15 educational institution; provided that this requirement does  
16 not apply to the medicaid managed care system."

17 SECTION 31. Section 59A-46-42.1 NMSA 1978 (being Laws  
18 2007, Chapter 278, Section 3) is amended to read:

19 "59A-46-42.1. COVERAGE FOR THE HUMAN PAPILLOMAVIRUS  
20 VACCINE.--

21 A. An individual or group health maintenance  
22 organization contract delivered, issued for delivery or renewed  
23 in this state shall provide coverage for the human  
24 papillomavirus vaccine [~~to females nine to fourteen years of~~  
25 age] in accordance with the current standards of the federal

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1 centers for disease control and prevention.

2 B. Coverage for the human papillomavirus vaccine may  
3 be subject to deductibles and coinsurance consistent with those  
4 imposed on other benefits under the same policy, plan or  
5 certificate.

6 C. The provisions of this section shall not apply to  
7 short-term travel, accident-only or limited or specified  
8 disease policies.

9 D. For the purposes of this section, "human  
10 papillomavirus vaccine" means a vaccine approved by the federal  
11 food and drug administration used for the prevention of human  
12 papillomavirus infection and cervical precancers."

13 SECTION 32. Section 59A-47-33 NMSA 1978 (being Laws 1984,  
14 Chapter 127, Section 879.32, as amended) is amended to read:

15 "59A-47-33. OTHER PROVISIONS APPLICABLE.--The provisions  
16 of the Insurance Code other than Chapter 59A, Article 47 NMSA  
17 1978 shall not apply to health care plans except as expressly  
18 provided in the Insurance Code and that article. To the extent  
19 reasonable and not inconsistent with the provisions of that  
20 article, the following articles and provisions of the Insurance  
21 Code shall also apply to health care plans, their promoters,  
22 sponsors, directors, officers, employees, agents, solicitors  
23 and other representatives; and, for the purposes of such  
24 applicability, a health care plan may therein be referred to as  
25 an "insurer":

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- 1 A. Chapter 59A, Article 1 NMSA 1978;
- 2 B. Chapter 59A, Article 2 NMSA 1978;
- 3 C. Chapter 59A, Article 4 NMSA 1978;
- 4 D. Subsection C of Section 59A-5-22 NMSA 1978;
- 5 E. Sections 59A-6-2 through 59A-6-4 and 59A-6-6 NMSA
- 6 1978;
- 7 F. Section 59A-7-11 NMSA 1978;
- 8 G. Chapter 59A, Article 8 NMSA 1978;
- 9 H. Chapter 59A, Article 10 NMSA 1978;
- 10 I. Section 59A-12-22 NMSA 1978;
- 11 J. Chapter 59A, Article 16 NMSA 1978;
- 12 K. Chapter 59A, Article 18 NMSA 1978;
- 13 L. ~~[the Policy Language Simplification Law]~~ Chapter
- 14 59A, Article 19 NMSA 1978;
- 15 M. Subsections B through E of Section 59A-22-5 NMSA
- 16 1978;
- 17 N. Section 59A-22-14 NMSA 1978;
- 18 O. Section 59A-22-34.1 NMSA 1978;
- 19 P. Section 59A-22-39 NMSA 1978;
- 20 Q. Section 59A-22-40 NMSA 1978;
- 21 R. Section 59A-22-40.1 NMSA 1978;
- 22 S. Section 59A-22-41 NMSA 1978;
- 23 T. Section 59A-22-42 NMSA 1978;
- 24 U. Section 59A-22-43 NMSA 1978;
- 25 V. Section 59A-22-44 NMSA 1978;

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1           W. Section 59A-22-50 NMSA 1978;  
2           ~~[W.]~~ X. Sections 59A-34-7 through 59A-34-13,  
3           59A-34-17, 59A-34-23, 59A-34-33, 59A-34-40 through 59A-34-42  
4           and 59A-34-44 through 59A-34-46 NMSA 1978;  
5           ~~[X.]~~ Y. the Insurance Holding Company Law, except  
6           Section 59A-37-7 NMSA 1978;  
7           ~~[Y.]~~ Z. Section 59A-46-15 NMSA 1978; ~~[and]~~  
8           ~~[Z.]~~ AA. the Patient Protection Act; and  
9           BB. the Surprise Billing Protection Act."

10           **SECTION 33.** Section 59A-47-40 NMSA 1978 (being Laws 2003,  
11           Chapter 391, Section 7, as amended) is amended to read:

12           "59A-47-40. MAXIMUM AGE OF DEPENDENT.--An individual or  
13           group health care coverage, including any form of self-  
14           insurance, offered, issued or renewed under the Health Care  
15           Purchasing Act that offers coverage of an insured's dependent  
16           shall not terminate coverage of an unmarried dependent by  
17           reason of the dependent's age before the dependent's [~~twenty-~~  
18           ~~fifth~~] twenty-sixth birthday, regardless of whether the  
19           dependent is enrolled in an educational institution."

20           **SECTION 34.** Section 59A-54-6 NMSA 1978 (being Laws 1987,  
21           Chapter 154, Section 6, as amended) is amended to read:

22           "59A-54-6. NOTICE OF POOL.--  
23           A. [~~Commencing September 1, 1987, every~~] Every  
24           insurer shall provide a notice and an application for coverage  
25           by the pool to any person who receives:

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1 (1) a rejection of coverage for health insurance  
2 or health care services;

3 (2) a notice that the rate for health insurance  
4 or coverage for health care services provided will exceed the  
5 rates of a pool policy; ~~[or]~~

6 (3) a notice of reduction or limitation of  
7 coverage, including a restrictive rider, from an insurer if the  
8 effect of the reduction or limitation is to substantially  
9 reduce coverage compared to the coverage available to a person  
10 considered a standard risk for the type of coverage provided by  
11 the plan; or

12 (4) a termination of coverage for health  
13 insurance or health care services by either the carrier or the  
14 covered individual.

15 B. The notice required by Subsection A of this  
16 section shall state that ~~[effective January 1, 1988 or an~~  
17 ~~earlier date, that]~~ the person is eligible to apply for health  
18 insurance provided by the pool. Application for the health  
19 insurance shall be on forms prescribed by the board and made  
20 available to all insurers."

21 SECTION 35. Section 59A-54-8 NMSA 1978 (being Laws 1987,  
22 Chapter 154, Section 8) is amended to read:

23 "59A-54-8. EXAMINATION.--The pool shall be subject to and  
24 responsible for examination by the superintendent ~~[of~~  
25 ~~insurance]~~. Not later than ~~[March 1]~~ June 1 of each year, the

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1 board shall submit to the superintendent an audited financial  
2 report for the preceding calendar year in a form approved by  
3 the superintendent."

4 SECTION 36. Section 59A-54-11 NMSA 1978 (being Laws 1987,  
5 Chapter 154, Section 11, as amended) is amended to read:

6 "59A-54-11. POOL ADMINISTRATOR--SELECTION--DUTIES.--

7 A. The board shall select a pool administrator  
8 through a competitive bidding process. The board shall  
9 evaluate bids based on criteria established by the board, which  
10 shall include:

11 (1) proven ability to handle accident and health  
12 insurance;

13 (2) efficiency of claim paying procedures;

14 (3) an estimate of total charges for  
15 administering the plan; and

16 (4) ability to administer the pool in a cost-  
17 efficient manner.

18 B. The pool administrator shall serve for a period  
19 ~~[of three years]~~ not to exceed that provided in Subsection B of  
20 Section 13-1-150 NMSA 1978, subject to removal for cause. At  
21 least one year prior to the expiration of ~~[each three-year~~  
22 ~~period of service by]~~ the pool ~~[administrator]~~ administrator's  
23 contract, the board shall invite all interested parties,  
24 including the current administrator, to submit bids to serve as  
25 the pool administrator for the succeeding ~~[three-year]~~ contract

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1 period. Selection of the administrator for a succeeding period  
2 shall be made at least six months prior to the expiration of [~~a~~  
3 ~~three-year period of service by a pool administrator~~] the pool  
4 administrator's current contract.

5 C. The pool administrator shall:

6 (1) perform all eligibility and administrative  
7 claim payment functions relating to the pool;

8 (2) establish a premium billing procedure for  
9 collection of premiums from insured persons. Billings shall be  
10 made on a periodic basis, not less than monthly, as determined  
11 by the board;

12 (3) perform all necessary functions to assure  
13 timely payment of benefits to persons covered under the pool,  
14 including:

15 (a) making information available relating to  
16 the proper manner of submitting a claim for benefits to the  
17 pool and distributing forms upon which submission shall be  
18 made; and

19 (b) evaluating the eligibility of each claim  
20 for payment by the pool;

21 (4) submit regular reports to the board  
22 regarding the operation of the pool. The frequency, content  
23 and form of the report shall be as determined by the board; and

24 (5) following the close of each fiscal year,  
25 determine net written and earned premiums, the expense of

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1 administration and the paid and incurred losses for the year  
2 and report this information to the board and the superintendent  
3 on a form prescribed by the superintendent.

4 D. The administrator shall be paid as provided in the  
5 contract negotiated pursuant to the process for selection of  
6 the administrator established by the board."

7 SECTION 37. Section 59A-54-14 NMSA 1978 (being Laws 1987,  
8 Chapter 154, Section 14, as amended) is amended to read:

9 "59A-54-14. DEDUCTIBLES--COINSURANCE--MAXIMUM OUT-OF-  
10 POCKET PAYMENTS.--

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

20 B. Subject to the limitations provided in Subsection  
21 C of this section, a mandatory coinsurance requirement shall be  
22 imposed at the rate [~~of twenty percent of eligible expenses in~~  
23 ~~excess of the mandatory deductible~~] determined by the board.

24 C. The maximum aggregate out-of-pocket payments for  
25 eligible expenses by the insured shall be determined by the

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1 board."

2 SECTION 38. Section 59A-54-19 NMSA 1978 (being Laws 1987,  
3 Chapter 154, Section 19, as amended) is amended to read:

4 "59A-54-19. RATES--STANDARD RISK RATE.--

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

17 B. The board shall adopt a low-income premium  
18 schedule that provides coverage at lower rates for those  
19 persons with an income less than four hundred percent of the  
20 current federal poverty level guidelines applicable to New  
21 Mexico, published by the United States department of health and  
22 human services. For individuals with household incomes of one  
23 hundred ninety-nine percent of the federal poverty level or  
24 lower, the premium reduction shall be seventy-five percent.  
25 For individuals with household incomes of two hundred percent

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1 to two hundred ninety-nine percent of the federal poverty  
2 level, the premium reduction shall be fifty percent. For  
3 individuals with household incomes of three hundred percent to  
4 three hundred ninety-nine percent of the federal poverty level,  
5 the premium reduction shall be twenty-five percent [~~with the~~  
6 ~~exception of those individuals in this category who were~~  
7 ~~enrolled and receiving a fifty percent reduction in premium~~  
8 ~~prior to January 1, 2009, who shall be phased down to a twenty-~~  
9 ~~five percent premium reduction over a two-year period,~~  
10 ~~provided that they continue to re-qualify annually for a~~  
11 ~~premium reduction in the three hundred percent to three hundred~~  
12 ~~ninety-nine percent of the federal poverty level category].~~  
13 The board shall determine income based on the preceding taxable  
14 year. No person shall be eligible for a low-income premium  
15 reduction if that person's premium is paid by a third party who  
16 is not a family member.

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

19 SECTION 39. REPEAL.--Sections 59A-23-9, 59A-23A-11,  
20 59A-24A-12, 59A-46-51, 59A-47-46 and 59A-48-16 NMSA 1978 (being  
21 Laws 1997, Chapter 243, Section 20, Laws 1993, Chapter 126,  
22 Section 15, Laws 1989, Chapter 28, Section 12, Laws 2010,  
23 Chapter 94, Sections 3 and 4 and Laws 1984, Chapter 127,  
24 Section 895, as amended) are repealed.

25 SECTION 40. EFFECTIVE DATE.--The effective date of the

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1 provisions of this act is July 1, 2021.

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