

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 581

**46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004**

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
ENACTING THE NEW MEXICO TELEHEALTH ACT; PROVIDING STANDARDS FOR  
TELEHEALTH DELIVERY OF HEALTH CARE.

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

Section 1. SHORT TITLE.--This act may be cited as the  
"New Mexico Telehealth Act".

Section 2. FINDINGS AND PURPOSE.--

A. The legislature finds that:

(1) lack of primary care, specialty providers  
and transportation continue to be significant barriers to  
access to health services in medically underserved rural areas;

(2) there are parts of this state where it is  
difficult to attract and retain health professionals, as well  
as support local health facilities to provide a continuum of

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1 health care;

2 (3) many health care providers in medically  
3 underserved areas are isolated from mentors and colleagues and  
4 from the information resources necessary to support them  
5 personally and professionally;

6 (4) using information technology to deliver  
7 medical services and information from one location to another  
8 is part of a multifaceted approach to address the problems of  
9 provider distribution and the development of health systems in  
10 medically underserved areas by improving communication  
11 capabilities and providing convenient access to up-to-date  
12 information, consultations and other forms of support;

13 (5) the use of telecommunications to deliver  
14 health services has the potential to reduce costs, improve  
15 quality, change the conditions of practice and improve access  
16 to health care in rural, medically underserved areas; and

17 (6) telehealth will assist in maintaining or  
18 improving the physical and economic health of medically  
19 underserved communities by keeping the source of medical care  
20 in the local area, strengthening the health infrastructure and  
21 preserving health-care-related jobs.

22 B. The purpose of the New Mexico Telehealth Act is  
23 to provide a framework for health care providers to follow in  
24 providing telehealth to New Mexico citizens when it is  
25 impractical for those citizens to receive health care

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1 consultations face-to-face with health care providers.

2 Section 3. DEFINITIONS.--As used in the New Mexico  
3 Telehealth Act:

4 A. "health care provider" means a person licensed  
5 to provide health care to patients in New Mexico, including:

- 6 (1) an optometrist;
- 7 (2) a chiropractic physician;
- 8 (3) a dentist;
- 9 (4) a physician;
- 10 (5) a podiatrist;
- 11 (6) an osteopathic physician;
- 12 (7) a physician assistant;
- 13 (8) a certified nurse practitioner;
- 14 (9) a physical therapist;
- 15 (10) an occupational therapist;
- 16 (11) a speech-language pathologist;
- 17 (12) a doctor of oriental medicine;
- 18 (13) a nutritionist;
- 19 (14) a psychologist;
- 20 (15) a certified nurse-midwife;
- 21 (16) a clinical nurse specialist;
- 22 (17) a registered nurse;
- 23 (18) a dental hygienist; or
- 24 (19) a pharmacist;

25 B. "originating site" means a place where a patient

underscoring material = new  
~~[bracketed material] = delete~~

1 may receive health care via telehealth. An originating site  
2 may include:

- 3 (1) a licensed inpatient center;
- 4 (2) an ambulatory surgical or treatment  
5 center;
- 6 (3) a skilled nursing center;
- 7 (4) a residential treatment center;
- 8 (5) a home health agency;
- 9 (6) a diagnostic laboratory or imaging center;
- 10 (7) an assisted living center;
- 11 (8) a school-based health program;
- 12 (9) a mobile clinic;
- 13 (10) a mental health clinic;
- 14 (11) a rehabilitation or other therapeutic  
15 health setting; or
- 16 (12) the patient's residence; and

17 C. "telehealth" means the use of electronic  
18 information, imaging and communication technologies, including  
19 interactive audio, video, data communications as well as store-  
20 and-forward technologies, to provide and support health care  
21 delivery, diagnosis, consultation, treatment, transfer of  
22 medical data and education when distance separates the patient  
23 and the health care provider.

24 Section 4. TELEHEALTH AUTHORIZED--PROCEDURE.--The  
25 delivery of health care via telehealth is recognized and

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1 encouraged as a safe, practical and necessary practice in New  
2 Mexico. No health care provider or operator of an originating  
3 site shall be disciplined for or discouraged from participating  
4 in telehealth pursuant to the New Mexico Telehealth Act. In  
5 using telehealth procedures, health care providers and  
6 operators of originating sites shall comply with all applicable  
7 federal and state guidelines and shall follow established  
8 federal and state rules regarding security, confidentiality and  
9 privacy protections for health care information.

10 Section 5. SCOPE OF ACT.--

11 A. The New Mexico Telehealth Act does not alter the  
12 scope of practice of any health care provider or authorize the  
13 delivery of health care services in a setting, or in a manner,  
14 not otherwise authorized by law.

15 B. Although the use of telehealth is strongly  
16 encouraged, nothing in the New Mexico Telehealth Act requires a  
17 health insurer, health maintenance organization, managed care  
18 organization, provider service organization or the state's  
19 medical assistance program to include telehealth within the  
20 scope of the plan or policy offered by that entity.