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SENATE BILL 6

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Pete Campos

AN ACT

RELATING TO HEALTH CARE; ADDING CERTIFIED NURSE-MIDWIVES TO THE
MEDICAL MALPRACTICE ACT; PROVIDING FOR TYPES OF COVERAGE;
AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 41-5-3 NMSA 1978 (being Laws 1976,
Chapter 2, Section 3, as amended) is amended to read:

"41-5-3. DEFINITIONS. -- As used in the Medical Malpractice
Act:

A. "health care provider" means a person,
corporation, organization, facility or institution licensed or
certified by this state to provide health care or professional
services as a doctor of medicine, hospital, outpatient health
care facility, doctor of osteopathy, [~~chiropractor~~]
chiropractic physician, podiatrist, nurse anesthetist,

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1 certified nurse-midwife or [~~physician's~~] physician assistant;

2 B. "eligible forms of insurance coverage" includes
3 occurrence form or claims made form, provided that such form
4 includes a provision providing automatic unlimited extending
5 reporting endorsement;

6 [~~B.-~~] C. "insurer" means an insurance company
7 engaged in writing health care provider malpractice liability
8 insurance in this state;

9 [~~C.-~~] D. "malpractice claim" includes any cause of
10 action arising in this state against a health care provider for
11 medical treatment, lack of medical treatment or other claimed
12 departure from accepted standards of health care [~~which~~] that
13 proximately results in injury to the patient, whether the
14 patient's claim or cause of action sounds in tort or contract,
15 and includes but is not limited to actions based on battery or
16 wrongful death; "malpractice claim" does not include a cause of
17 action arising out of the driving, flying or nonmedical acts
18 involved in the operation, use or maintenance of a vehicular or
19 aircraft ambulance;

20 [~~D.-~~] E. "medical care and related benefits" means
21 all reasonable medical, surgical, physical rehabilitation and
22 custodial services and includes drugs, prosthetic devices and
23 other similar materials reasonably necessary in the provision
24 of such services;

25 [~~E.-~~] F. "patient" means a natural person who

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1 received or should have received health care from a licensed
2 health care provider, under a contract, express or implied; and

3 ~~[F-]~~ G. "superintendent" means the superintendent
4 of insurance ~~[of this state]. "~~

5 Section 2. Section 41-5-26 NMSA 1978 (being Laws 1976,
6 Chapter 2, Section 26, as amended) is amended to read:

7 "41-5-26. MALPRACTICE COVERAGE. --

8 A. The filing of proof of financial responsibility
9 with the superintendent, as provided in Section ~~[58-33-5 NMSA~~
10 ~~1953]~~ 41-5-5 NMSA 1978, shall constitute a conclusive and
11 unqualified acceptance of the provisions of the Medical
12 Malpractice Act.

13 B. Any provision in a policy attempting to limit or
14 modify the liability of the insurer contrary to the provisions
15 of the Medical Malpractice Act is void.

16 C. Every policy issued under the Medical
17 Malpractice Act is deemed to include the following provisions:

18 (1) the insurer assumes all obligations to pay
19 an award imposed against its insured under the provisions of
20 the Medical Malpractice Act; and

21 (2) any termination of a policy by an insurer
22 shall not be effective unless written notice of ~~[such]~~ the
23 termination has been mailed by certified mail to both the
24 insured and the superintendent at least ninety days prior to
25 the date the cancellation is to become effective, except that

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1 an insurer may terminate a policy if a billed premium payment
2 is thirty days past due upon ten days' prior written notice
3 mailed by certified mail to the insured of the failure of the
4 insured to pay premiums, and an insured may terminate ~~[his]~~ the
5 policy by written request to the insurer, but the effective
6 date of termination shall be not sooner than ten days after the
7 receipt by the insurer of the written request to terminate. In
8 all cases when a policy is terminated for failure of the
9 insured to pay premiums or at the request of the insured, the
10 insurer shall notify the superintendent in writing immediately
11 of the effective date of termination of the policy. ~~[The~~
12 ~~insurer shall remain liable for all causes of action accruing~~
13 ~~prior to the effective date of the termination unless otherwise~~
14 ~~barred by the provisions of the Medical Malpractice Act.]"~~

15 - 4 -