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HOUSE BILL 956

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Keith J. Gardner

AN ACT

RELATING TO MEDICAL CARE; PROVIDING TORT IMMUNITY TO CERTAIN
HEALTH CARE PROVIDERS.

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

Section 1. Section 41-4-3 NMSA 1978 (being Laws 1976,
Chapter 58, Section 3, as amended) is amended to read:

"41-4-3. DEFINITIONS.--As used in the Tort Claims Act:

A. "board" means the risk management advisory
board;

B. "governmental entity" means the state or any
local public body as defined in Subsections C and H of this
section;

C. "local public body" means all political
subdivisions of the state and their agencies, instrumentalities
and institutions and all water and natural gas associations

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1 organized pursuant to Chapter 3, Article 28 NMSA 1978;

2 D. "law enforcement officer" means a full-time
3 salaried public employee of a governmental entity whose
4 principal duties under law are to hold in custody any person
5 accused of a criminal offense, to maintain public order or to
6 make arrests for crimes, or members of the national guard when
7 called to active duty by the governor;

8 E. "maintenance" does not include:

9 (1) conduct involved in the issuance of a
10 permit, driver's license or other official authorization to use
11 the roads or highways of the state in a particular manner; or

12 (2) an activity or event relating to a public
13 building or public housing project that was not foreseeable;

14 F. "public employee" means an officer, employee or
15 servant of a governmental entity, excluding independent
16 contractors except for individuals defined in Paragraphs (7),
17 (8), (10) and (14) of this subsection, or of a corporation
18 organized pursuant to the Educational Assistance Act, the Small
19 Business Investment Act or the Mortgage Finance Authority Act;
20 or a licensed health care provider providing voluntary services
21 as defined in Paragraph (16) of this subsection and including:

22 (1) elected or appointed officials;

23 (2) law enforcement officers;

24 (3) persons acting on behalf or in service of
25 a governmental entity in any official capacity, whether with or

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1 without compensation;

2 (4) licensed foster parents providing care for
3 children in the custody of the human services department,
4 corrections department or department of health, but not
5 including foster parents certified by a licensed child
6 placement agency;

7 (5) members of state or local selection panels
8 established pursuant to the Adult Community Corrections Act;

9 (6) members of state or local selection panels
10 established pursuant to the Juvenile Community Corrections Act;

11 (7) licensed medical, psychological or dental
12 arts practitioners providing services to the corrections
13 department pursuant to contract;

14 (8) members of the board of directors of the
15 New Mexico medical insurance pool;

16 (9) individuals who are members of medical
17 review boards, committees or panels established by the
18 educational retirement board or the retirement board of the
19 public employees retirement association;

20 (10) licensed medical, psychological or dental
21 arts practitioners providing services to the children, youth
22 and families department pursuant to contract;

23 (11) members of the board of directors of the
24 New Mexico educational assistance foundation;

25 (12) members of the board of directors of the

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1 New Mexico student loan guarantee corporation;

2 (13) members of the New Mexico mortgage
3 finance authority;

4 (14) volunteers, employees and board members
5 of court-appointed special advocate programs; ~~and~~

6 (15) members of the board of directors of the
7 small business investment corporation; and

8 (16) health care providers licensed in New
9 Mexico who render voluntary health care services without
10 compensation in accordance with rules promulgated by the
11 secretary of health:

12 G. "scope of duty" means performing any duties that
13 a public employee is requested, required or authorized to
14 perform by the governmental entity, regardless of the time and
15 place of performance; and

16 H. "state" or "state agency" means the state of New
17 Mexico or any of its branches, agencies, departments,
18 boards, instrumentalities or institutions."

19 Section 2. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is July 1, 2007.

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