

AN ACT

RELATING TO EMERGENCIES; PROVIDING THAT AN UNPAID HEALTH PROFESSIONAL DEPLOYED BY THE DEPARTMENT OF HEALTH TO RESPOND TO A DECLARED EMERGENCY SHALL BE CONSIDERED A PUBLIC EMPLOYEE FOR PURPOSES OF THE WORKERS' COMPENSATION ACT.

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

Section 1. Section 52-1-3.1 NMSA 1978 (being Laws 1979, Chapter 199, Section 2, as amended) is amended to read:

"52-1-3.1. PUBLIC EMPLOYEE.--

A. As used in the Workers' Compensation Act, unless otherwise provided, "public employee" means any person receiving a salary from, and acting in the service of, the state or any county, municipality, school district, drainage, irrigation or conservancy district, public institution or administrative board, including elected or appointed public officers.

B. "Public employee" includes an unpaid health professional deployed by the department of health within New Mexico in response to a declared public emergency or public health emergency or deployed by the department of health outside New Mexico in response to a request for emergency health personnel made pursuant to the Emergency Management Assistance Compact; provided that, for purposes of the Workers' Compensation Act:

(1) the department of health shall be considered to be the employer of the person;

(2) the person's average weekly wage, for the purpose of calculating compensation, shall be considered to be the average weekly wage for similar services performed by paid workers in like employment; and

(3) the person shall not be considered an employee in the calculation of any fee pursuant to Section 52-5-19 NMSA 1978.

C. "Public employee" does not include an independent contractor."

Section 2. Section 52-1-64 NMSA 1978 (being Laws 1975, Chapter 241, Section 1, as amended) is amended to read:

"52-1-64. EXTRA-TERRITORIAL COVERAGE.--If an employee, while working outside the territorial limits of this state, suffers an injury on account of which the employee or, in the event of the employee's death, the employee's dependents would have been entitled to the benefits provided by the Workers' Compensation Act, had such injury occurred within this state, the employee or, in the event of the employee's death resulting from the injury, the employee's dependents shall be entitled to the benefits provided by that act; provided that at the time of the injury:

A. the employee's employment is principally localized in this state;

B. the employee is working under a contract of hire made in this state in employment not principally localized in any state;

C. the employee is working under a contract of hire made in this state in employment principally localized in another state whose workers' compensation law is not applicable to the employee's employer;

D. the employee is working under a contract of hire made in this state for employment outside the United States and Canada; or

E. the employee is an unpaid health professional deployed outside this state by the department of health in response to a request for emergency health personnel made pursuant to the Emergency Management Assistance Compact."

Section 3. Section 52-4-1 NMSA 1978 (being Laws 1983, Chapter 116, Section 1, as amended) is amended to read:

"52-4-1. DEFINITION--HEALTH CARE PROVIDER.--As used in Chapter 52 NMSA 1978, "health care provider" means:

A. a hospital maintained by the state or a political subdivision of the state or any place currently licensed as a hospital by the department of health that has:

(1) accommodations for resident bed patients;

(2) a licensed professional registered nurse always on duty or call;

- (3) a laboratory; and
- (4) an operating room where surgical operations are performed;
- B. an optometrist licensed pursuant to the provisions of Chapter 61, Article 2 NMSA 1978;
- C. a chiropractor licensed pursuant to the provisions of Chapter 61, Article 4 NMSA 1978;
- D. a dentist licensed pursuant to the provisions of Chapter 61, Article 5 NMSA 1978;
- E. a physician licensed pursuant to the provisions of Chapter 61, Article 6 NMSA 1978;
- F. a podiatrist licensed pursuant to the provisions of Chapter 61, Article 8 NMSA 1978;
- G. an osteopathic physician licensed pursuant to the provisions of Chapter 61, Article 10 NMSA 1978;
- H. a physician assistant registered pursuant to the provisions of Section 61-6-7 NMSA 1978;
- I. a certified nurse practitioner licensed pursuant to Section 61-3-23.2 NMSA 1978;
- J. a physical therapist licensed pursuant to the provisions of Chapter 61, Article 12 NMSA 1978;
- K. an occupational therapist licensed pursuant to the provisions of Chapter 61, Article 12A NMSA 1978;
- L. a doctor of oriental medicine licensed pursuant to the provisions of Chapter 61, Article 14A NMSA 1978;

M. a psychologist who is duly licensed or certified in the state where the service is rendered, holding a doctorate degree in psychology and having at least two years of clinical experience in a recognized health setting, or who has met the standards of the national register of health services providers in psychology;

N. a certified nurse-midwife licensed by the board of nursing as a registered nurse and registered with the behavioral health services division of the department of health as a certified nurse-midwife;

O. a pharmacist licensed pursuant to the provisions of Chapter 61, Article 11 NMSA 1978; or

P. any person or facility that provides health-related services in the health care industry, as approved by the director."

---