

A MEMORIAL

REQUESTING THE NEW MEXICO HEALTH POLICY COMMISSION TO CREATE A TASK FORCE TO STUDY REASONABLE LIMITS ON THE DUTY OF HEALTH CARE PROFESSIONALS TO RESPOND TO DISASTERS.

WHEREAS, health care professionals have the skills and often have a duty in emergency situations to come to the rescue of a person or persons in need; and

WHEREAS, most state good Samaritan laws provide civil immunity for some individuals acting in good faith to provide assistance in an emergency, and these laws exist to create incentives for individuals to voluntarily come to the aid of another without the fear of liability; and

WHEREAS, New Mexico's good Samaritan law provides this civil immunity, and defines an emergency to include motor vehicle accidents or collisions, acts of God and other accidents and events of similar nature; and

WHEREAS, in the wake of large scale, catastrophic disasters, whether natural, biological or the result of war or terrorist activities, many more issues arise than fear of civil liability; and

WHEREAS, these issues have ethical, clinical, professional and personal elements that must be considered when a professional elects to respond to the disaster; and

WHEREAS, many of these elements came to the awareness of

the general public in the aftermath of hurricane Katrina when two nurses and a physician were accused of giving four patients at a New Orleans hospital a "lethal cocktail" thereby ending their lives; and

WHEREAS, in that hospital, at that time, there was no electricity and no functioning plumbing and there were rising floodwaters in the building, very few remaining staff, patients dying and no hope of rescue; and

WHEREAS, the ethical dilemmas faced by health care professionals in situations such as that resemble a battlefield, as the resources of the setting are inadequate to appropriately address the medical needs of the patients; and

WHEREAS, health care professionals may feel the only options remaining are euthanasia or abandonment, both of which are in direct opposition to the codes and standards of health care professionals; and

WHEREAS, in the event of a catastrophic disaster, a health care professional may be faced with divided loyalties, torn between providing necessary care and services to their patients, and the known or unknown needs of their families; and

WHEREAS, in a disaster, health care professionals may be forced to choose between addressing the health and safety of their patients and their own personal health and safety; and

WHEREAS, health care professionals may find themselves

in personal or professional jeopardy based on their actions or inactions in a disaster; and

WHEREAS, it is possible to imagine situations such as this being replicated in New Mexico due to catastrophic disasters; and

WHEREAS, health care professionals would benefit from guidance and direction developed in a time when no catastrophic disaster is before them;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NEW MEXICO that the New Mexico health policy commission be requested to create a task force to study reasonable limits on the duty of a health care professional to respond to disasters; and

BE IT FURTHER RESOLVED that the task force have representation from the university of New Mexico school of medicine, the university of New Mexico school of law, health professional licensing boards, at least two persons with education and experience in bioethics, the New Mexico hospital association, the department of health and the homeland security and emergency management department; and

BE IT FURTHER RESOLVED that the findings and recommendations of the task force be presented to the interim legislative health and human services committee by October 31, 2009; and

BE IT FURTHER RESOLVED that a copy of this memorial be

transmitted to the deputy director of the New Mexico health
policy commission.