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HOUSE BILL 208

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

Miguel P. Garcia

AN ACT

RELATING TO HEALTH INSURANCE; AMENDING A SECTION OF THE NEW MEXICO INSURANCE CODE TO PROVIDE FOR FREEDOM OF CHOICE OF HOSPITAL AND PRACTITIONER TO INCLUDE LICENSED PROFESSIONAL MENTAL HEALTH COUNSELORS AND THERAPISTS.

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

**SECTION 1.** Section 59A-22-32 NMSA 1978 (being Laws 1984, Chapter 127, Section 454, as amended) is amended to read:

"59A-22-32. FREEDOM OF CHOICE OF HOSPITAL AND PRACTITIONER.--

A. Within the area and limits of coverage offered an insured and selected by the insured in the application for insurance, the right of a person to exercise full freedom of choice in the selection of a hospital for hospital care or of a practitioner of the healing arts or optometrist, psychologist,

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1     podiatrist, physician assistant, certified nurse-midwife,  
2     registered lay midwife, [Ø] registered nurse in expanded  
3     practice or licensed professional mental health counselor or  
4     therapist, as defined in Subsection B of this section, for  
5     treatment of an illness or injury within that person's scope of  
6     practice shall not be restricted under any new policy of health  
7     insurance, contract or health care plan issued after June 30,  
8     1967 in this state or in the processing of a claim thereunder.  
9     A person insured or claiming benefits under any such health  
10    insurance policy, contract or health care plan providing within  
11    its coverage for payment of service benefits or indemnity for  
12    hospital care or treatment of persons for the cure or  
13    correction of any physical or mental condition shall be deemed  
14    to have complied with the requirements of the policy, contract  
15    or health care plan as to submission of proof of loss upon  
16    submitting written proof supported by the certificate of any  
17    hospital currently licensed by the department of health or any  
18    practitioner of the healing arts or optometrist, psychologist,  
19    podiatrist, physician assistant, certified nurse-midwife,  
20    registered lay midwife, [Ø] registered nurse in expanded  
21    practice or licensed professional mental health counselor or  
22    therapist.

23           B. As used in this section:

24                   (1) "hospital care" means hospital service  
25           provided through a hospital that is maintained by the state or

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1 a political subdivision of the state or a place that is  
2 currently licensed as a hospital by the department of health  
3 and has accommodations for resident bed patients, a licensed  
4 professional registered nurse always on duty or call, a  
5 laboratory and an operating room where surgical operations are  
6 performed, but "hospital care" does not include a convalescent,  
7 [~~or~~] nursing or rest home;

8 (2) "licensed professional mental health  
9 counselor or therapist" means an individual whom the counseling  
10 and therapy practice board has licensed as a licensed  
11 professional mental health counselor or therapist;

12 [~~(2)~~] (3) "practitioner of the healing arts"  
13 means a person holding a license or certificate authorizing the  
14 licensee to offer or undertake to diagnose, treat, operate on  
15 or prescribe for any human pain, injury, disease, deformity or  
16 physical or mental condition pursuant to:

17 (a) the Chiropractic Physician Practice  
18 Act;

19 (b) the Dental Health Care Act;

20 (c) the Medical Practice Act;

21 (d) Chapter 61, Article 10 NMSA 1978;

22 and

23 (e) the Acupuncture and Oriental  
24 Medicine Practice Act;

25 [~~(3)~~] (4) "optometrist" means a person holding

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1 a license provided for in the Optometry Act;

2 ~~[(4)]~~ (5) "podiatrist" means a person holding  
3 a license provided for in the Podiatry Act;

4 ~~[(5)]~~ (6) "psychologist" means a person who is  
5 duly licensed or certified in the state where the service is  
6 rendered and has a doctoral degree in psychology and has had at  
7 least two years of clinical experience in a recognized health  
8 setting or has met the standards of the national register of  
9 health service providers in psychology;

10 ~~[(6)]~~ (7) "physician assistant" means a person  
11 who is licensed by the New Mexico medical board to practice as  
12 a physician assistant and who provides services to patients  
13 under the supervision and direction of a licensed physician;

14 ~~[(7)]~~ (8) "certified nurse-midwife" means a  
15 person licensed by the board of nursing as a registered nurse  
16 and who is registered with the public health division of the  
17 department of health as a certified nurse-midwife;

18 ~~[(8)]~~ (9) "registered lay midwife" means a  
19 person who practices lay midwifery and is registered as a  
20 registered lay midwife by the public health division of the  
21 department of health; and

22 ~~[(9)]~~ (10) "registered nurse in expanded  
23 practice" means a person licensed by the board of nursing as a  
24 registered nurse approved for expanded practice pursuant to the  
25 Nursing Practice Act as a certified nurse practitioner,

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1 certified registered nurse anesthetist, certified clinical  
2 nurse specialist in psychiatric mental health nursing or  
3 clinical nurse specialist in private practice and who has a  
4 master's degree or doctorate in a defined clinical nursing  
5 [~~speciality~~] specialty and is certified by a national nursing  
6 organization.

7 C. This section shall apply to any such policy that  
8 is delivered or issued for delivery in this state on or after  
9 July 1, 1979 and to any existing group policy or plan on its  
10 anniversary or renewal date after June 30, 1979 or at  
11 expiration of the applicable collective bargaining contract, if  
12 any, whichever is later."

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