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SENATE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO HEALTH COVERAGE; ENACTING SECTIONS OF THE HEALTH CARE PURCHASING ACT, THE NEW MEXICO INSURANCE CODE, THE HEALTH MAINTENANCE ORGANIZATION LAW AND THE NONPROFIT HEALTH CARE PLAN LAW TO PROVIDE THAT HEALTH COVERAGE CARRIERS SHALL NOT DISCRIMINATE AGAINST HEALTH CARE PROVIDERS WORKING WITHIN THEIR LEGAL SCOPES OF PRACTICE; AMENDING A SECTION OF CHAPTER 59A, ARTICLE 22 NMSA 1978; REPEALING SECTIONS OF THE NMSA 1978.

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

SECTION 1. A new section of the Health Care Purchasing Act is enacted to read:

"[NEW MATERIAL] HEALTH CARE PROVIDERS--
NONDISCRIMINATION.--

A. Group health coverage, including any form of self-insurance, offered, issued or renewed under the Health

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1 Care Purchasing Act shall not discriminate with respect to
2 participation under the plan or coverage against any health
3 care provider who is acting within the scope of that provider's
4 license, certification or other legal authority to practice in
5 the state.

6 B. This section shall not require that a group
7 health plan contract with any health care provider willing to
8 abide by the terms and conditions for participation established
9 by the group health plan.

10 C. Nothing in this section shall be construed as
11 preventing a group health plan from establishing varying
12 reimbursement rates based on quality or performance measures.

13 D. As used in this section, "health care provider"
14 means a person that is licensed, certified or otherwise
15 authorized to provide services relating to physical or
16 behavioral health care in the ordinary course of business in
17 the state."

18 SECTION 2. Section 59A-22-32 NMSA 1978 (being Laws 1984,
19 Chapter 127, Section 454, as amended) is amended to read:

20 "59A-22-32. FREEDOM OF CHOICE OF HOSPITAL [~~AND~~
21 ~~PRACTITIONER~~].--

22 A. Within the area and limits of coverage offered
23 an insured and selected by the insured in the application for
24 insurance, the right of a person to exercise full freedom of
25 choice in the selection of a hospital for hospital care [~~or of~~

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

22 B. As used in this section, [~~(1)~~] "hospital care"
23 means hospital service provided through a hospital that is
24 maintained by the state or a political subdivision of the state
25 or a place that is currently licensed as a hospital by the

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1 department of health and has accommodations for resident bed
2 patients, a licensed professional registered nurse always on
3 duty or call, a laboratory and an operating room where surgical
4 operations are performed, but "hospital care" does not include
5 a convalescent or nursing or rest home

6 ~~[(2) "practitioner of the healing arts" means~~
7 ~~a person holding a license or certificate authorizing the~~
8 ~~licensee to offer or undertake to diagnose, treat, operate on~~
9 ~~or prescribe for any human pain, injury, disease, deformity or~~
10 ~~physical or mental condition pursuant to:~~

11 ~~(a) the Chiropractic Physician Practice~~
12 ~~Act;~~

13 ~~(b) the Dental Health Care Act;~~

14 ~~(c) the Medical Practice Act;~~

15 ~~(d) Chapter 61, Article 10 NMSA 1978;~~

16 and

17 ~~(e) the Acupuncture and Oriental~~
18 ~~Medicine Practice Act;~~

19 ~~(3) "optometrist" means a person holding a~~
20 ~~license provided for in the Optometry Act;~~

21 ~~(4) "podiatrist" means a person holding a~~
22 ~~license provided for in the Podiatry Act;~~

23 ~~(5) "psychologist" means a person who is duly~~
24 ~~licensed or certified in the state where the service is~~
25 ~~rendered and has a doctoral degree in psychology and has had at~~

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1 ~~least two years of clinical experience in a recognized health~~
2 ~~setting or has met the standards of the national register of~~
3 ~~health service providers in psychology;~~

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

8 ~~(7) "certified nurse-midwife" means a person~~
9 ~~licensed by the board of nursing as a registered nurse and who~~
10 ~~is registered with the public health division of the department~~
11 ~~of health as a certified nurse-midwife;~~

12 ~~(8) "registered lay midwife" means a person~~
13 ~~who practices lay midwifery and is registered as a registered~~
14 ~~lay midwife by the public health division of the department of~~
15 ~~health; and~~

16 ~~(9) "registered nurse in expanded practice"~~
17 ~~means a person licensed by the board of nursing as a registered~~
18 ~~nurse approved for expanded practice pursuant to the Nursing~~
19 ~~Practice Act as a certified nurse practitioner, certified~~
20 ~~registered nurse anesthetist, certified clinical nurse~~
21 ~~specialist in psychiatric mental health nursing or clinical~~
22 ~~nurse specialist in private practice and who has a master's~~
23 ~~degree or doctorate in a defined clinical nursing speciality~~
24 ~~and is certified by a national nursing organization.~~

25 G. ~~This section shall apply to any such policy that~~

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1 ~~is delivered or issued for delivery in this state on or after~~
2 ~~July 1, 1979 and to any existing group policy or plan on its~~
3 ~~anniversary or renewal date after June 30, 1979 or at~~
4 ~~expiration of the applicable collective bargaining contract, if~~
5 ~~any, whichever is later]."~~

6 SECTION 3. A new section of Chapter 59A, Article 22 NMSA
7 1978 is enacted to read:

8 "[NEW MATERIAL] HEALTH CARE PROVIDERS--
9 NONDISCRIMINATION.--

10 A. An individual or group health insurance policy,
11 health care plan or certificate of health insurance that is
12 delivered, issued for delivery or renewed in the state shall
13 not discriminate with respect to participation under the
14 policy, plan or certificate against any health care provider
15 who is acting within the scope of that provider's license,
16 certification or other legal authority to practice in the
17 state.

18 B. This section shall not require that a health
19 insurer contract with any health care provider willing to abide
20 by the terms and conditions for participation established by
21 the health insurance policy, health care plan or certificate of
22 health insurance.

23 C. Nothing in this section shall be construed as
24 preventing a health insurer from establishing varying
25 reimbursement rates based on quality or performance measures.

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1 D. As used in this section, "health care provider"
2 means a person that is licensed, certified or otherwise
3 authorized to provide services relating to physical or
4 behavioral health care in the ordinary course of business in
5 the state."

6 SECTION 4. A new section of Chapter 59A, Article 23 NMSA
7 1978 is enacted to read:

8 "[NEW MATERIAL] HEALTH CARE PROVIDERS--
9 NONDISCRIMINATION.--

10 A. A group health insurance policy, health care
11 plan or certificate of health insurance that is delivered,
12 issued for delivery or renewed in the state shall not
13 discriminate with respect to participation under the policy,
14 plan or certificate against any health care provider who is
15 acting within the scope of that provider's license,
16 certification or other legal authority to practice in the
17 state.

18 B. This section shall not require that a health
19 insurer contract with any health care provider willing to abide
20 by the terms and conditions for participation established by
21 the health insurance policy, health care plan or certificate of
22 health insurance.

23 C. Nothing in this section shall be construed as
24 preventing a health insurer from establishing varying
25 reimbursement rates based on quality or performance measures.

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1 D. As used in this section, "health care provider"
2 means a person that is licensed, certified or otherwise
3 authorized to provide services relating to physical or
4 behavioral health care in the ordinary course of business in
5 the state."

6 **SECTION 5.** A new section of the Health Maintenance
7 Organization Law is enacted to read:

8 "[NEW MATERIAL] HEALTH CARE PROVIDERS--
9 NONDISCRIMINATION.--

10 A. An individual or group health maintenance
11 contract that is delivered, issued for delivery or renewed in
12 the state shall not discriminate with respect to participation
13 pursuant to that contract against any health care provider who
14 is acting within the scope of that provider's license,
15 certification or other legal authority to practice in the
16 state.

17 B. This section shall not require that a health
18 maintenance organization contract with any health care provider
19 willing to abide by the terms and conditions for participation
20 established by the health maintenance contract.

21 C. Nothing in this section shall be construed as
22 preventing a health maintenance organization from establishing
23 varying reimbursement rates based on quality or performance
24 measures.

25 D. As used in this section, "health care provider"

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1 means a person that is licensed, certified or otherwise
2 authorized to provide services relating to physical or
3 behavioral health care in the ordinary course of business in
4 the state."

5 SECTION 6. A new section of the Nonprofit Health Plan Law
6 is enacted to read:

7 "[NEW MATERIAL] HEALTH CARE PROVIDERS--
8 NONDISCRIMINATION.--

9 A. An individual or group health care plan that is
10 delivered, issued for delivery or renewed in the state shall
11 not discriminate with respect to participation under the plan
12 or coverage against any health care provider who is acting
13 within the scope of that provider's license, certification or
14 other legal authority to practice in the state.

15 B. This section shall not require that a health
16 plan contract with any health care provider willing to abide by
17 the terms and conditions for participation established by the
18 health plan.

19 C. Nothing in this section shall be construed as
20 preventing a health insurer from establishing varying
21 reimbursement rates based on quality or performance measures.

22 D. As used in this section, "health care provider"
23 means a person that is licensed, certified or otherwise
24 authorized to provide services relating to physical or
25 behavioral health care in the ordinary course of business in

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the state."

SECTION 7. REPEAL.--Sections 59A-46-35, 59A-46-36,
59A-47-28.2 and 59A-47-28.3 NMSA 1978 (being Laws 1987, Chapter
335, Section 1, Laws 1989, Chapter 96, Section 2, Laws 1991,
Chapter 145, Section 1 and Laws 1998, Chapter 39, Section 2, as
amended) are repealed.