

AN ACT
RELATING TO INSURANCE; PROVIDING FOR CRIMINAL HISTORY
BACKGROUND INVESTIGATIONS; PROVIDING FOR EXTENDED
APPLICABILITY OF THE INSURANCE FRAUD ACT PROVIDING FOR
PARTICIPATION IN A NATIONAL INSURANCE PRODUCER REGISTRY;
AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 59A-11-2 NMSA 1978 (being Laws 1984, Chapter 127, Section 181, as amended by Laws 1999, Chapter 272, Section 3 and also by Laws 1999, Chapter 289, Section 4) is amended to read:

"59A-11-2. APPLICATION FOR LICENSE--INDIVIDUAL.--

A. Where a license is required under the Insurance Code for categories referred to in Section 59A-11-1 NMSA 1978, application by an individual shall be filed with, and on a form prescribed and furnished by, the superintendent. The application shall be signed by the applicant, under oath if required by the form, and by or on behalf of the proposed principal where expressly required in the form.

B. The application form may require information about the applicant as to:

(1) name, date of birth, social security number, residence and business address if applicable;

(2) personal history, business experience in general;

(3) experience or special training or education in the kind of business to be transacted under the license applied for;

(4) previous licensing;

(5) type of license applied for and kinds of insurance or transactions to be covered thereby;

(6) proof of applicant's identity; and

(7) such other pertinent information and matters as the superintendent may reasonably require.

C. Application for license as insurance agent shall be accompanied by appointment of the applicant as agent by at least one insurer, conditioned upon issuance of the license. Application for license as insurance solicitor or as agent or solicitor as to dental and health care plan, motor club, bail bondsman, and other principals shall be accompanied by appointment of the applicant by the proposed principal as solicitor or agent, as the case may be, subject to issuance of the license applied for.

D. In all such appointments the principal or principal's representative if so required by the superintendent shall certify in writing as to his knowledge of the applicant, as to the applicant's residence, experience had or special training received or to be given as to

business to be transacted under the license, the applicant's business and personal reputation, whether the applicant is trustworthy and worthy of licensing, and whether satisfied that the applicant intends in good faith to engage in the business to be covered by the license, and appointment of the applicant is not to enable the applicant to evade the intent or spirit of any controlled business, anti-rebate or anti-discrimination law or other law.

E. The application form shall also require information as to additional matters expressly required to be included therein in articles of the Insurance Code relating to particular licenses.

F. The application shall be accompanied by the applicable license application filing fee specified in Section 59A-6-1 NMSA 1978, by bond where expressly required under other provisions of the Insurance Code, and by the fee specified in such fee schedule for any examination required under the Insurance Code to be taken and passed by the applicant prior to licensing.

G. The superintendent shall require a criminal history background investigation of the applicant for a license by means of fingerprint checks by the department of public safety and the federal bureau of investigation.

H. The superintendent shall obtain from the department of public safety and the federal bureau of

investigation, at the expense of the applicant for a license, criminal history information concerning each applicant, using the applicant's fingerprints or other identifying information. The information shall be used by the superintendent solely in determining whether to grant the application. "

Section 2. Section 59A-11-14 NMSA 1978 (being Laws 1984, Chapter 127, Section 193) is amended to read:

"59A-11-14. SUSPENSION, REVOCATION, REFUSAL TO CONTINUE LICENSE-- GROUNDS. --

A. In addition to reason therefor provided under other provisions of the Insurance Code as to particular licenses, the superintendent may suspend, revoke or refuse to continue any license issued under Chapter 59A, Article 11 NMSA 1978 for any of the following reasons applicable as to licensee:

(1) for any cause for which issuance of the license could have been refused had it then existed and been known to the superintendent;

(2) violation of any provision of the Insurance Code or other law applicable to the business transacted under the license;

(3) willful failure to comply with, or willful violation of, any lawful order or rule of the superintendent;

(4) material misstatement, misrepresentation or fraud in obtaining the license;

(5) failure to pass any examination required by the superintendent, subsequent to issue of license, under Subsection D of Section 59A-11-10 NMSA 1978;

(6) misappropriation, conversion or unlawful withholding, or failure or refusal to pay over upon demand, any money belonging to insurers or others and received in conduct of business under the license;

(7) fraudulent or dishonest practices in conduct of business under the license;

(8) intentional material misrepresentation of the terms of any existing or proposed insurance policy, contract or other service within scope of the license;

(9) conviction by final judgment of a felony involving dishonesty or breach of trust;

(10) aiding, abetting or assisting another person to violate any provision of the Insurance Code; or

(11) if in conduct of affairs under the license, the licensee has used fraudulent, coercive or dishonest practices, or has shown himself to be incompetent, untrustworthy, financially irresponsible or a source of injury and loss to the public; or that the interests of the insureds or the public are not being properly served under the license.

B. The superintendent may suspend, revoke or refuse to continue the license of a firm or corporation for any of such causes as relate to any individual designated in or registered as to the license to exercise its powers.

C. The superintendent may require a criminal history background investigation of a current license holder by means of fingerprint checks by the department of public safety and the federal bureau of investigation, at the expense of the license holder, using the license holder's fingerprints or other identifying information. The information shall be used by the superintendent solely in determining whether to suspend, revoke or refuse to continue a license."

Section 3. Section 59A-30-14 NMSA 1978 (being Laws 1985, Chapter 28, Section 14, as amended by Laws 1999, Chapter 60, Section 21 and also by Laws 1999, Chapter 289, Section 27) is amended to read:

"59A-30-14. OTHER PROVISIONS APPLICABLE. --To the extent not in conflict with the New Mexico Title Insurance Law, the following articles and provisions of the Insurance Code shall also apply to title insurers, title insurance agents and the business of title insurance:

- A. Chapter 59A, Article 1 NMSA 1978;
- B. Chapter 59A, Article 2 NMSA 1978;
- C. Chapter 59A, Article 4 NMSA 1978;

- D. Chapter 59A, Article 5 NMSA 1978;
- E. Chapter 59A, Article 6 NMSA 1978;
- F. Chapter 59A, Article 7 NMSA 1978;
- G. Chapter 59A, Article 8 NMSA 1978;
- H. Chapter 59A, Article 9 NMSA 1978;
- I. Chapter 59A, Article 10 NMSA 1978;
- J. Chapter 59A, Article 11 NMSA 1978;
- K. Chapter 59A, Article 12 NMSA 1978;
- L. the Unauthorized Insurers Law;
- M. Chapter 59A, Article 16 NMSA 1978;
- N. the Insurance Fraud Act;
- O. Chapter 59A, Article 34 NMSA 1978; and
- P. The Insurance Holding Company Law. "

Section 4. Section 59A-44-41 NMSA 1978 (being Laws 1989, Chapter 388, Section 41, as amended) is amended to read:

"59A-44-41. APPLICABILITY OF INSURANCE CODE. --To the extent not in conflict with the express provisions of Chapter 59A, Article 44 NMSA 1978 and the reasonable implications thereof, the following provisions of the Insurance Code shall also apply as to fraternal benefit societies, and for such purpose a society may therein be referred to as an "insurer":

- A. Chapter 59A, Article 1 NMSA 1978;
- B. Chapter 59A, Article 2 NMSA 1978;
- C. Chapter 59A, Article 4 NMSA 1978;

D. Sections 59A-8-1 and 59A-8-2 NMSA 1978;
E. Section 59A-12-22 NMSA 1978;
F. the Insurance Fraud Act;
G. Chapter 59A, Article 18 NMSA 1978;
H. the Policy Language Simplification Law;
I. the Medicare Supplement Act;
J. Chapter 59A, Articles 20 and 22 NMSA 1978; and
K. the Insurers Conservation, Rehabilitation and
Liquidation Law. "

Section 5. Section 59A-46-30 NMSA 1978 (being Laws 1993, Chapter 266, Section 29, as amended) is amended to read:

"59A-46-30. STATUTORY CONSTRUCTION AND RELATIONSHIP TO OTHER LAWS. --

A. The provisions of the Insurance Code other than Chapter 59A, Article 46 NMSA 1978 shall not apply to health maintenance organizations except as expressly provided in the Insurance Code and that article. To the extent reasonable and not inconsistent with the provisions of that article, the following articles and provisions of the Insurance Code shall also apply to health maintenance organizations and their promoters, sponsors, directors, officers, employees, agents, solicitors and other representatives. For the purposes of such applicability, a health maintenance organization may therein be referred to as

an "insurer":

- (1) Chapter 59A, Article 1 NMSA 1978;
- (2) Chapter 59A, Article 2 NMSA 1978;
- (3) Chapter 59A, Article 4 NMSA 1978;
- (4) Subsection C of Section 59A-5-22 NMSA 1978;
- (5) Sections 59A-6-2 through 59A-6-4 and 59A-6-6 NMSA 1978;
- (6) Chapter 59A, Article 8 NMSA 1978;
- (7) Chapter 59A, Article 10 NMSA 1978;
- (8) Section 59A-12-22 NMSA 1978;
- (9) Chapter 59A, Article 16 NMSA 1978;
- (10) Chapter 59A, Article 18 NMSA 1978;
- (11) the Policy Language Simplification Law;
- (12) Section 59A-22-14 NMSA 1978;
- (13) the Insurance Fraud Act;
- (14) the Minimum Healthcare Protection Act;
- (15) Sections 59A-34-2, 59A-34-7 through 59A-34-13, 59A-34-17, 59A-34-23, 59A-34-33, 59A-34-36, 59A-34-37, 59A-34-40 through 59A-34-42 and 59A-34-44 through 59A-34-46 NMSA 1978;
- (16) The Insurance Holding Company Law; and
- (17) the Patient Protection Act.

B. Solicitation of enrollees by a health maintenance organization granted a certificate of authority,

or its representatives, shall not be construed as violating any provision of law relating to solicitation or advertising by health professionals, but health professionals shall be individually subject to the laws, rules and ethical provisions governing their individual professions.

C. Any health maintenance organization authorized under the provisions of the Health Maintenance Organization Law shall not be deemed to be practicing medicine and shall be exempt from the provisions of laws relating to the practice of medicine. "

Section 6. Section 59A-47-33 NMSA 1978 (being Laws 1984, Chapter 127, Section 879.32, as amended) is amended to read:

"59A-47-33. OTHER PROVISIONS APPLICABLE. -- The provisions of the Insurance Code other than Chapter 59A, Article 47 NMSA 1978 shall not apply to health care plans except as expressly provided in the Insurance Code and that article. To the extent reasonable and not inconsistent with the provisions of that article, the following articles and provisions of the Insurance Code shall also apply to health care plans, their promoters, sponsors, directors, officers, employees, agents, solicitors and other representatives; and, for the purposes of such applicability, a health care plan may therein be referred to as an "insurer":

A. Chapter 59A, Article 1 NMSA 1978;

- B. Chapter 59A, Article 2 NMSA 1978;
- C. Chapter 59A, Article 4 NMSA 1978;
- D. Subsection C of Section 59A-5-22 NMSA 1978;
- E. Sections 59A-6-2 through 59A-6-4 and
59A-6-6 NMSA 1978;
- F. Section 59A-7-11 NMSA 1978;
- G. Chapter 59A, Article 8 NMSA 1978;
- H. Chapter 59A, Article 10 NMSA 1978;
- I. Section 59A-12-22 NMSA 1978;
- J. Chapter 59A, Article 16 NMSA 1978;
- K. the Insurance Fraud Act;
- L. Chapter 59A, Article 18 NMSA 1978;
- M. the Policy Language Simplification Law;
- N. Subsections B through E of Section 59A-22-5
NMSA 1978;
- O. Section 59A-22-14 NMSA 1978;
- P. Section 59A-22-34.1 NMSA 1978;
- Q. Section 59A-22-39 NMSA 1978;
- R. Section 59A-22-40 NMSA 1978;
- S. Section 59A-22-41 NMSA 1978;
- T. Sections 59A-34-7 through 59A-34-13, 59A-34-
17, 59A-34-23, 59A-34-33, 59A-34-40 through 59A-34-42 and
59A-34-44 through 59A-34-46 NMSA 1978;
- U. The Insurance Holding Company Law, except
Section 59A-37-7 NMSA 1978;

- V. Section 59A-46-15 NMSA 1978; and
- W. the Patient Protection Act. "

Section 7. Section 59A-48-19 NMSA 1978 (being Laws 1984, Chapter 127, Section 898) is amended to read:

"59A-48-19. OTHER PROVISIONS APPLICABLE. --In addition to those referred to in Chapter 59A, Article 48 NMSA 1978, the following articles and provisions of the Insurance Code shall also apply, to the extent reasonably applicable and subject to the provisions of that article, as to prepaid dental plan organizations, their sponsors, directors, officers, personnel and representatives and member contracts. For the purposes of this provision, such organizations may be referred to as "insurers" and such contracts as "policies":

- A. Chapter 59A, Article 1 NMSA 1978;
- B. Chapter 59A, Article 2 NMSA 1978;
- C. Chapter 59A, Article 4 NMSA 1978;
- D. Subsection C of Section 59A-5-22 NMSA 1978;
- E. Section 59A-5-33 NMSA 1978;
- F. Sections 59A-6-1, 59A-6-3, 59A-6-4 and 59A-6-6 NMSA 1978;
- G. Section 59A-7-11 NMSA 1978;
- H. Chapter 59A, Article 8 NMSA 1978;
- I. Chapter 59A, Article 10 NMSA 1978;
- J. Section 59A-12-22 NMSA 1978;
- K. the Insurance Fraud Act;

L. Chapter 59A, Article 18 NMSA 1978;
M the Policy Language Simplification Law; and
N. Section 59A-34-10 NMSA 1978, as to domestic prepaid dental plans. "

Section 8. Section 59A-50-21 NMSA 1978 (being Laws 1984, Chapter 127, Section 927) is amended to read:

"59A-50-21. OTHER PROVISIONS APPLICABLE. --In addition to those referred to in Chapter 59A, Article 50 NMSA 1978 as to particular matters, the following articles and provisions of the Insurance Code shall also, to the extent reasonably applicable and not in conflict with the provisions of Chapter 59A, Article 50 NMSA 1978 and the reasonable implications thereof, apply as to motor clubs, their sponsors, directors, officers, representatives, personnel and operations. For the purposes of such applicability, a motor club may be referred to in such articles and provisions as an "insurer":

A. Chapter 59A, Article 1 NMSA 1978;
B. Chapter 59A, Article 2 NMSA 1978;
C. Chapter 59A, Article 4 NMSA 1978;
D. Chapter 59A, Article 10 NMSA 1978;
E. Section 59A-12-22 NMSA 1978;
F. Chapter 59A, Article 16 NMSA 1978;
G. the Insurance Fraud Act; and
H. the Insurers Conservation, Rehabilitation and Liquidation Law. "

Section 9. A new section of the New Mexico Insurance Code is enacted to read:

"PRODUCER LICENSING--NATIONAL PRODUCER REGISTRY-- FEES COLLECTED.--The division may contract with a nongovernmental entity, including the national association of insurance commissioners or its affiliates or subsidiaries, to perform ministerial functions related to licensure of producers. Fees collected shall be remitted to the division on a schedule approved by the superintendent. The division may adopt by rule any uniform standards and procedures necessary to participate in a national producer registry." _____

HB 258
Page 14

HB 258
Page 14

