

AN ACT

RELATING TO DENTISTRY; CLARIFYING THE APPLICATION OF THE DENTAL
HEALTH CARE ACT TO MEDICAID AND CERTAIN SECTIONS OF THE NEW MEXICO
INSURANCE CODE; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 27-2-12 NMSA 1978 (being Laws 1973, Chapter 376,
Section 16, as amended) is amended to read:

"27-2-12. MEDICAL ASSISTANCE PROGRAMS.--Consistent with the federal
act and subject to the appropriation and availability of federal and state funds, the
medical assistance division of the human services department may by regulation
provide medical assistance, including the services of licensed doctors of oriental
medicine, licensed chiropractic physicians and licensed dental hygienists in
collaborative practice, to persons eligible for public assistance programs under the
federal act."

Section 2. 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 him in the application for insurance, the right of any person to exercise full
freedom of choice in the selection of any hospital for hospital care or of any
practitioner of the healing arts or optometrist, psychologist, podiatrist, certified nurse-
midwife, registered lay midwife or registered nurse in expanded practice, as defined in
Subsection B of this section, for treatment of any illness or injury within his scope of

practice shall not be restricted under any new policy of health insurance, contract or health care plan issued after June 30, 1967 in this state or in the processing of any claim thereunder. Any person insured or claiming benefits under any such health insurance policy, contract or health care plan providing within its coverage for payment of service benefits or indemnity for hospital care or treatment of persons for the cure or correction of any physical or mental condition shall be deemed to have complied with the requirements of the policy, contract or health care plan as to submission of proof of loss upon submitting written proof supported by the certificate of any hospital currently licensed by the department of health or any practitioner of the healing arts or optometrist, psychologist, podiatrist, certified nurse-midwife, registered lay midwife or registered nurse in expanded practice.

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B. As used in this section:

(1) "hospital care" means hospital service provided through a hospital that is maintained by the state or any political subdivision of the state or any place that is currently licensed as a hospital by the department of health and has accommodations for resident bed patients, a licensed professional registered nurse always on duty or call, a laboratory and an operating room where surgical operations are performed, but "hospital care" does not include a convalescent or nursing or rest home;

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

(a) the Chiropractic Physician Practice Act;

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- (b) the Dental Health Care Act;
 - (c) the Medical Practice Act;
 - (d) Chapter 61, Article 10 NMSA 1978; and
 - (e) the Acupuncture and Oriental Medicine Practice Act;
- (3) "optometrist" means any person holding a license provided for in the Optometry Act;
- (4) "podiatrist" means any person holding a license provided for in the Podiatry Act;
- (5) "psychologist" means a person who is duly licensed or certified in the state where the service is rendered and has a doctoral degree in psychology and has had at least two years of clinical experience in a recognized health setting or has met the standards of the national register of health service providers in psychology;
- (6) "certified nurse-midwife" means any person licensed by the board of nursing as a registered nurse and who is registered with the public health division of the department of health as a certified nurse-midwife;
- (7) "registered lay midwife" means any person who practices lay midwifery and is registered as a registered lay midwife by the public health division of the department of health; and
- (8) "registered nurse in expanded practice" means any person licensed by the board of nursing as a registered nurse approved for expanded practice pursuant to the Nursing Practice Act as a certified nurse practitioner, certified registered nurse anesthetist, certified clinical nurse specialist in psychiatric mental health nursing or clinical nurse specialist in private practice and who has a master's

degree or doctorate in a defined clinical nursing speciality and is certified by a national nursing organization.

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

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Section 3. Section 59A-46-35 NMSA 1978 (being Laws 1987, Chapter 335, Section 1, as amended) is amended to read:

"59A-46-35. PROVIDER DISCRIMINATION PROHIBITED.--No class of licensed individual providers willing to meet the terms and conditions offered by a health maintenance organization shall be excluded from a health maintenance organization. For purposes of this section, "providers" means those persons licensed pursuant to:

- A. the Optometry Act;
- B. Section 61-3-23.2 NMSA 1978;
- C. the Chiropractic Physician Practice Act;
- D. the Dental Health Care Act;
- E. the Medical Practice Act;
- F. the Podiatry Act;
- G. the Professional Psychologist Act;
- H. Chapter 61, Article 10 NMSA 1978; or
- I. the Pharmacy Act."

Section 4. A new section of the Nonprofit Health Care Plan Law, Section 59A-47-28.4 NMSA 1978, is enacted to read:

"59A-47-28.4. COVERAGE FOR COLLABORATIVE PRACTICE DENTAL

HYGIENISTS.--An individual or group subscriber contract delivered or issued for delivery in New Mexico that, on a prepaid, service or indemnity basis provides for treatment of persons for the prevention, cure or correction of any illness or physical or mental condition shall include coverage for the services of a dental hygienist in a collaborative practice pursuant to the Dental Health Care Act."

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