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SENATE BILL 818

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Phil A. Griego

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.

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, [and] licensed ~~chiropractors~~ chiropractic physicians and licensed dental hygienists in collaborative practice, to persons eligible for public

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1 assistance programs under the federal act."

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

4 "59A-22-32. FREEDOM OF CHOICE OF HOSPITAL AND  
5 PRACTITIONER. --

6 A. Within the area and limits of coverage offered  
7 an insured and selected by him in the application for  
8 insurance, the right of any person to exercise full freedom of  
9 choice in the selection of any hospital for hospital care or of  
10 any practitioner of the healing arts or optometrist,  
11 psychologist, podiatrist, certified nurse-midwife, registered  
12 lay midwife or registered nurse in expanded practice, as  
13 defined in Subsection B of this section, for treatment of any  
14 illness or injury within his scope of practice shall not be  
15 restricted under any new policy of health insurance, contract  
16 or health care plan issued after June 30, 1967 in this state or  
17 in the processing of any claim thereunder. Any person insured  
18 or claiming benefits under any such health insurance policy,  
19 contract or health care plan providing within its coverage for  
20 payment of service benefits or indemnity for hospital care or  
21 treatment of persons for the cure or correction of any physical  
22 or mental condition shall be deemed to have complied with the  
23 requirements of the policy, contract or health care plan as to  
24 submission of proof of loss upon submitting written proof  
25 supported by the certificate of any hospital currently licensed

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1 by the [~~health and environment~~] department of health or any  
2 practitioner of the healing arts or optometrist, psychologist,  
3 podiatrist, certified nurse-midwife, registered lay midwife or  
4 registered nurse in expanded practice.

5 B. As used in this section:

6 (1) "hospital care" means hospital service  
7 provided through a hospital [~~which~~] that is maintained by the  
8 state or any political subdivision of the state or any place  
9 [~~which~~] that is currently licensed as a hospital by the [~~health~~  
10 ~~and environment~~] department of health and has accommodations  
11 for resident bed patients, a licensed professional registered  
12 nurse always on duty or call, a laboratory and an operating  
13 room where surgical operations are performed, but [~~the term~~]  
14 "hospital care" does not include a convalescent or nursing or  
15 rest home;

16 (2) "practitioner of the healing arts" means  
17 any person holding a license or certificate [~~provided for in~~  
18 ~~Chapter 61, Article 4, 5, 6, 10 or 14A NMSA 1978~~] authorizing  
19 the licensee to offer or undertake to diagnose, treat, operate  
20 on or prescribe for any human pain, injury, disease, deformity  
21 or physical or mental condition pursuant to:

22 (a) the Chiropractic Physician Practice  
23 Act;

24 (b) the Dental Health Care Act;

25 (c) the Medical Practice Act;

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(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 [~~Chapter 61, Article 2 NMSA 1978~~] the Optometry Act;

(4) "podiatrist" means any person holding a license provided for in [~~Chapter 61, Article 8 NMSA 1978~~] the Podiatry Act;

(5) "psychologist" [~~is one~~] 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 [~~services~~] division of the [~~health and environment~~] 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 [~~services~~] division of the [~~health and environment~~] department of health; and

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1 (8) "registered nurse in expanded practice"  
2 means any person licensed by the board of nursing as a  
3 registered nurse approved for expanded practice pursuant to the  
4 Nursing Practice Act as a certified nurse practitioner,  
5 certified registered nurse anesthetist, certified clinical  
6 nurse specialist in psychiatric mental health nursing or  
7 clinical nurse specialist in private practice and who has a  
8 master's degree or doctorate in a defined clinical nursing  
9 speciality and is certified by a national nursing organization.

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

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

18 "59A-46-35. PROVIDER DISCRIMINATION PROHIBITED. --No class  
19 of licensed individual providers willing to meet the terms and  
20 conditions offered by a health maintenance organization shall  
21 be excluded from a health maintenance organization. For  
22 purposes of this section, "providers" means those persons  
23 licensed pursuant to [~~Section 61-3-23.2 NMSA 1978 or Article 2,~~  
24 ~~4, 5A, 6, 8, 9, 10 or 11 of Chapter 61 NMSA 1978~~]:

25 A. the Optometry Act;

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- 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. "