

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 605

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

John A. Heaton

AN ACT

RELATING TO EMERGENCIES; PROVIDING THAT AN UNPAID HEALTH PROFESSIONAL DEPLOYED BY THE DEPARTMENT OF HEALTH TO RESPOND TO A DECLARED EMERGENCY SHALL BE CONSIDERED A PUBLIC EMPLOYEE FOR PURPOSES OF THE WORKERS' COMPENSATION ACT.

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

Section 1. Section 52-1-3.1 NMSA 1978 (being Laws 1979, Chapter 199, Section 2, as amended) is amended to read:

"52-1-3.1. PUBLIC EMPLOYEE.--

A. As used in the Workers' Compensation Act, unless otherwise provided, "public employee" means any person receiving a salary from, and acting in the service of, the state or any county, municipality, school district, drainage, irrigation or conservancy district, public institution or administrative board, including elected or appointed public

.163524.2

underscoring material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 officers.

2 B. "Public employee" includes an unpaid health
3 professional deployed by the department of health within New
4 Mexico in response to a declared public emergency or public
5 health emergency or deployed by the department of health
6 outside New Mexico in response to a request for emergency
7 health personnel made pursuant to the Emergency Management
8 Assistance Compact; provided that, for purposes of the Workers'
9 Compensation Act:

10 (1) the department of health shall be
11 considered to be the employer of the person;

12 (2) the person's average weekly wage, for the
13 purpose of calculating compensation, shall be considered to be
14 the average weekly wage for similar services performed by paid
15 workers in like employment; and

16 (3) the person shall not be considered an
17 employee in the calculation of any fee pursuant to Section
18 52-5-19 NMSA 1978.

19 C. [The term] "Public employee" does not include an
20 independent contractor."

21 Section 2. Section 52-1-64 NMSA 1978 (being Laws 1975,
22 Chapter 241, Section 1, as amended) is amended to read:

23 "52-1-64. EXTRA-TERRITORIAL COVERAGE.--If an employee,
24 while working outside the territorial limits of this state,
25 suffers an injury on account of which [he] the employee or, in

.163524.2

underscoring material = new
[bracketed material] = delete

1 the event of [~~his~~] the employee's death, [~~his~~] the employee's
2 dependents would have been entitled to the benefits provided by
3 the Workers' Compensation Act, had such injury occurred within
4 this state, [~~such~~] the employee or, in the event of [~~his~~] the
5 employee's death resulting from [~~such~~] the injury, [~~his~~] the
6 employee's dependents shall be entitled to the benefits
7 provided by that act; provided that at the time of [~~such~~] the
8 injury:

9 A. [~~his~~] the employee's employment is principally
10 localized in this state;

11 B. [~~he~~] the employee is working under a contract of
12 hire made in this state in employment not principally localized
13 in any state;

14 C. [~~he~~] the employee is working under a contract of
15 hire made in this state in employment principally localized in
16 another state whose workers' compensation law is not applicable
17 to [~~his~~] the employee's employer; [~~or~~]

18 D. [~~he~~] the employee is working under a contract of
19 hire made in this state for employment outside the United
20 States and Canada; or

21 E. the employee is an unpaid health professional
22 deployed outside this state by the department of health in
23 response to a request for emergency health personnel made
24 pursuant to the Emergency Management Assistance Compact."

25 Section 3. Section 52-4-1 NMSA 1978 (being Laws 1983,

.163524.2

underscoring material = new
[bracketed material] = delete

1 Chapter 116, Section 1, as amended) is amended to read:

2 "52-4-1. DEFINITION--HEALTH CARE PROVIDER.--As used in
3 Chapter 52 NMSA 1978, "health care provider" means:

4 A. a hospital maintained by the state or a
5 political subdivision of the state or any place currently
6 licensed as a hospital by the department of health that has:

7 (1) accommodations for resident bed patients;

8 (2) a licensed professional registered nurse
9 always on duty or call;

10 (3) a laboratory; and

11 (4) an operating room where surgical
12 operations are performed;

13 B. an optometrist licensed pursuant to the
14 provisions of Chapter 61, Article 2 NMSA 1978;

15 C. a chiropractor licensed pursuant to the
16 provisions of Chapter 61, Article 4 NMSA 1978;

17 D. a dentist licensed pursuant to the provisions of
18 Chapter 61, Article 5 NMSA 1978;

19 E. a physician licensed pursuant to the provisions
20 of Chapter 61, Article 6 NMSA 1978;

21 F. a podiatrist licensed pursuant to the provisions
22 of Chapter 61, Article 8 NMSA 1978;

23 G. an osteopathic physician licensed pursuant to
24 the provisions of Chapter 61, Article 10 NMSA 1978;

25 H. a physician assistant registered pursuant to the

.163524.2

underscored material = new
[bracketed material] = delete

1 provisions of Section 61-6-7 NMSA 1978;

2 I. a certified nurse practitioner licensed pursuant
3 to Section 61-3-23.2 NMSA 1978;

4 J. a physical therapist licensed pursuant to the
5 provisions of Chapter 61, Article 12 NMSA 1978;

6 K. an occupational therapist licensed pursuant to
7 the provisions of Chapter 61, Article 12A NMSA 1978;

8 L. a doctor of oriental medicine licensed pursuant
9 to the provisions of Chapter 61, Article 14A NMSA 1978;

10 M. a psychologist who is duly licensed or certified
11 in the state where the service is rendered, holding a doctorate
12 degree in psychology and having at least two years of clinical
13 experience in a recognized health setting, or who has met the
14 standards of the national register of health services providers
15 in psychology;

16 N. a certified nurse-midwife licensed by the board
17 of nursing as a registered nurse and registered with the
18 behavioral health services division of the department of health
19 as a certified nurse-midwife; [~~or~~]

20 O. a pharmacist licensed pursuant to the provisions
21 of Chapter 61, Article 11 NMSA 1978; or

22 [~~or~~] P. any person or facility that provides
23 health-related services in the health care industry, as
24 approved by the director."