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SENATE BILL 359

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

INTRODUCED BY

Timothy Z. Jennings

AN ACT

RELATING TO HEALTH; ENACTING THE SCOPE OF PRACTICE ACT;
PROVIDING FOR A PROCESS TO REVIEW THE SCOPE OF PRACTICE FOR
CERTAIN LICENSED HEALTH PROFESSIONALS.

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

Section 1. SHORT TITLE.--This act may be cited as the
"Scope of Practice Act".

Section 2. PURPOSE.--The purpose of the Scope of Practice
Act is to:

A. provide a procedure for objective review of
proposed changes in the scope of practice of health
professionals licensed by the state in order to ensure that the
changes contribute to the improvement of the overall health of
the people of New Mexico; and

B. make recommendations of the review available to

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1 the legislature.

2 Section 3. DEFINITIONS.--As used in the Scope of Practice
3 Act:

4 A. "commission" means the New Mexico health policy
5 commission;

6 B. "health profession" means a health-related
7 activity or occupation licensed pursuant to Chapter 61, Article
8 2, 3, 4, 5A, 6, 7A, 8, 9, 9A, 10, 10A, 11, 12, 12A, 12B, 12C,
9 12D, 12E, 14A, 14B, 14C, 14D or 14E NMSA 1978;

10 C. "licensing board" means a licensing board of a
11 specific health profession regulated pursuant to Chapter 61
12 NMSA 1978; and

13 D. "scope of practice" means those practice
14 activities permitted a health profession as defined in its
15 licensing act and rules adopted pursuant to that act.

16 Section 4. PROPOSED STATUTORY CHANGE--LICENSING BOARD
17 ANALYSIS.--

18 A. A member of a licensing board, a licensee of the
19 licensing board or any other person seeking a change in the
20 scope of practice of a health profession shall notify the
21 respective licensing board and request a hearing on the
22 proposal. The licensing board shall notify the commission and
23 shall:

24 (1) collect data, including information from
25 the applicant and all other appropriate persons, necessary to

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1 review the proposal;

2 (2) conduct a technical assessment of the
3 proposal, if necessary with the assistance of a technical
4 advisory group established for that specific purpose, to
5 determine whether the proposal is in the profession's current
6 scope of practice; and

7 (3) provide its analysis, conclusions and any
8 recommendations, together with all materials gathered for the
9 review, to the commission.

10 B. The person seeking the change in the scope of
11 practice shall provide the licensing board with all information
12 requested.

13 Section 5. REVIEW PANELS--APPOINTMENT--DUTIES.--

14 A. The commission shall, upon notification of a
15 proposed change in a health profession scope of practice,
16 appoint an ad hoc review panel of sufficient numbers and
17 expertise to review and make recommendations on the proposed
18 change. Each panel:

19 (1) shall include one board member of the
20 licensing board for the health profession from which the
21 proposed change in scope of practice originates;

22 (2) may include one additional member from the
23 profession from which the proposed change originates who shall
24 be from the professional association of that profession; and

25 (3) shall have at least one-fourth of its

1 membership as individuals who have no economic interest in the
2 profession originating the request for a change in scope of
3 practice.

4 B. Each panel shall be chaired by the director of
5 the commission or the director's designee, who shall be a
6 nonvoting member. The panel shall:

7 (1) familiarize itself with the commission's
8 rules on procedures and criteria for such reviews;

9 (2) ensure appropriate public notice of its
10 proceedings;

11 (3) invite testimony from persons with special
12 knowledge in the field of the proposed change;

13 (4) assess the proposal using the following
14 criteria:

15 (a) whether proposed changes offer
16 potential harm to the health, safety or welfare of consumers;

17 (b) if the proposed changes will benefit
18 the health, safety and welfare of health consumers;

19 (c) what economic impact on overall
20 health care delivery the proposed change is likely to have;

21 (d) whether potential benefits of
22 proposed changes outweigh potential harm; and

23 (e) the extent to which the proposed
24 changes will affect the availability, accessibility, delivery
25 and quality of health care in New Mexico;

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- (5) conduct the analysis so as to:
 - (a) consider harm to the public in physical, emotional, economic and social contexts;
 - (b) ensure that consideration of economic and social benefit does not outweigh the potential of significant physical harm to the consumer; and
 - (c) ensure that evidence of potential harm is clearly and directly attributable to the proposal; and
- (6) provide to the New Mexico legislative council, the legislative finance committee and the legislative health and human services committee a full report, including legislative recommendations, on each proposed change in scope of practice brought before the commission.

Section 6. COMMISSION--SCOPE OF PRACTICE REVIEWS AND CRITERIA--POWERS AND DUTIES.--The commission shall:

- A. notify annually each licensing board and, whenever possible, each professional association and group of health professions, of both the licensing board's and the commission's responsibilities to review proposed changes in the scope of practice of health professions;
- B. ensure that scope of practice reviews by ad hoc review panels are conducted as public hearings with notice given pursuant to the procedures required by Subsection A of Section 12-8-4 NMSA 1978;
- C. provide staff services to all ad hoc review

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1 panels created pursuant to Section 5 of the Scope of Practice
2 Act; and

3 D. provide the legislature with all assistance
4 requested on the proposal.

5 Section 7. RULES.--The commission and each licensing
6 board shall promulgate such rules as are necessary to carry out
7 the provisions of the Scope of Practice Act.