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HOUSE BILL 41

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO MEDICINE; EXCEPTING INSURANCE ADJUSTERS FROM THE
MEDICAL PRACTICE ACT.

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

Section 1. Section 61-6-17 NMSA 1978 (being Laws 1973,
Chapter 361, Section 8, as amended) is amended to read:

"61-6-17. EXCEPTIONS TO ACT.--The Medical Practice Act
shall not apply to or affect:

- A. gratuitous services rendered in cases of
emergency;
- B. the domestic administration of family remedies;
- C. the practice of midwifery as regulated in this
state;
- D. commissioned medical officers of the armed
forces of the United States and medical officers of the United

underscoring material = new
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[bracketed material] = delete

1 States public health service or the department of veterans
2 [~~administration of the United States~~] affairs in the discharge
3 of their official duties or within federally controlled
4 facilities; provided that such persons who hold medical
5 licenses in New Mexico shall be subject to the provisions of
6 the Medical Practice Act and provided that all such persons
7 shall be fully licensed to practice medicine in one or more
8 jurisdictions of the United States;

9 E. the practice of medicine by a physician,
10 unlicensed in New Mexico, who performs emergency medical
11 procedures in air or ground transportation on a patient from
12 inside of New Mexico to another state or back, provided the
13 physician is duly licensed in that state;

14 F. the practice, as defined and limited under their
15 respective licensing laws, of:

- 16 (1) osteopathy;
- 17 (2) dentistry;
- 18 (3) podiatry;
- 19 (4) nursing;
- 20 (5) optometry;
- 21 (6) psychology;
- 22 (7) chiropractic;
- 23 (8) pharmacy;
- 24 (9) acupuncture and oriental medicine; or
- 25 (10) physical therapy;

underscoring material = new
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1 G. an act, task or function performed by a
2 physician assistant at the direction of and under the
3 supervision of a licensed physician, when:

4 (1) the physician assistant is currently
5 licensed by the board;

6 (2) the act, task or function is performed at
7 the direction of and under the supervision of a licensed
8 physician in accordance with rules promulgated by the board;
9 and

10 (3) the acts of the physician assistant are
11 within the scope of duties assigned or delegated by the
12 supervising licensed physician and the acts are within the
13 scope of the assistant's training;

14 H. an act, task or function of laboratory
15 technicians or technologists, x-ray technicians, nurse
16 practitioners, medical or surgical assistants or other
17 technicians or qualified persons permitted by law or
18 established by custom as part of the duties delegated to them
19 by:

20 (1) a licensed physician or a hospital, clinic
21 or institution licensed or approved by the public health
22 division of the department of health or an agency of the
23 federal government; or

24 (2) a health care program operated or financed
25 by an agency of the state or federal government;

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1 I. a properly trained medical or surgical assistant
2 or technician or professional licensee performing under the
3 physician's employment and direct supervision or a visiting
4 physician or surgeon operating under the physician's direct
5 supervision a medical act that a reasonable and prudent
6 physician would find within the scope of sound medical judgment
7 to delegate if, in the opinion of the delegating physician, the
8 act can be properly and safely performed in its customary
9 manner and if the person does not [~~hold himself out~~] claim to
10 the public [~~as being~~] to be authorized to practice medicine in
11 New Mexico. The delegating physician shall remain responsible
12 for the medical acts of the person performing the delegated
13 medical acts;

14 J. the practice of the religious tenets of a church
15 in the ministration to the sick or suffering by mental or
16 spiritual means as provided by law; provided that the Medical
17 Practice Act shall not be construed to exempt a person from the
18 operation or enforcement of the sanitary and quarantine laws of
19 the state;

20 K. the acts of a physician licensed under the laws
21 of another state of the United States who is the treating
22 physician of a patient and orders home health or hospice
23 services for a resident of New Mexico to be delivered by a home
24 and community support services agency licensed in this state;
25 provided that a change in the condition of the patient shall be

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underscored material = new
[bracketed material] = delete

1 physically reevaluated by the treating physician in the
2 treating physician's jurisdiction or by a licensed
3 New Mexico physician;

4 L. a physician licensed to practice under the laws
5 of another state who acts as a consultant to a New Mexico-
6 licensed physician on an irregular or infrequent basis, as
7 defined by rule of the board; ~~and~~

8 M. a physician who engages in the informal practice
9 of medicine across state lines without compensation or
10 expectation of compensation; provided that the practice of
11 medicine across state lines conducted within the parameters of
12 a contractual relationship shall not be considered informal and
13 is subject to licensure and rule by the board; and

14 N. an insurance adjuster licensed under the New
15 Mexico Insurance Code who is engaged in handling, interpreting
16 or adjusting a claim for medical payment or reimbursement for
17 medical treatment under an agreement, contract, statute or
18 common law relationship that exists between a person seeking
19 the payment or reimbursement and a claimed or alleged third-
20 party payer or the third-party payer's representative."