

HOUSE HEALTH AND GOVERNMENT AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 266

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

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 provide a procedure for:

A. 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. submitting findings, based on an objective

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1 review, to the governor and the legislature.

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

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

8 B. "licensing board" means a licensing board of a
9 specific health profession regulated pursuant to Chapter 61
10 NMSA 1978; and

11 C. "scope of practice" means those practice
12 activities permitted for a health profession as defined in its
13 licensing act and rules adopted pursuant to that act; and

14 D. "superintendent" means the superintendent of
15 regulation and licensing.

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

18 A. A member of a licensing board or a licensee of a
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 concerning the
22 proposed change. The licensing board shall notify the
23 superintendent and 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 superintendent.

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 superintendent 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 review panel shall:

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

22 (2) include the dean of the university of New
23 Mexico school of medicine; and

24 (3) have at least one-fourth of its membership
25 as individuals who have no economic interest in the profession

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1 originating the request for a change in scope of practice.

2 B. Each review panel shall be chaired by the
3 superintendent or the superintendent's designee, who shall be a
4 nonvoting member. The review panel shall:

5 (1) familiarize itself with the
6 superintendent's rules on procedures and criteria for such
7 reviews;

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

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

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

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

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

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

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

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

25 (5) conduct the analysis so as to:

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1 (a) consider harm to the public in
2 physical, emotional, economic and social contexts;

3 (b) ensure that consideration of
4 economic and social benefit does not outweigh the potential of
5 significant physical harm to the consumer; and

6 (c) ensure that evidence of potential
7 harm is clearly and directly attributable to the proposal; and

8 (6) summarize its assessment, analysis and
9 recommendations in a final report.

10 C. No later than September 15 of each year, the
11 superintendent shall provide to the governor, the New Mexico
12 legislative council, the legislative finance committee and the
13 legislative health and human services committee a full report,
14 including legislative recommendations, on each proposed change
15 in scope of practice brought before the superintendent and the
16 review panels during the previous fiscal year. The
17 superintendent shall also provide an oral presentation of the
18 report to the legislative finance committee and the legislative
19 health and human services committee.

20 **SECTION 6. SUPERINTENDENT--SCOPE OF PRACTICE REVIEWS AND**
21 **CRITERIA--POWERS AND DUTIES.--**The superintendent shall:

22 A. notify annually each licensing board and,
23 whenever possible, each professional association and group of
24 health professions, of the licensing board's responsibilities
25 to review proposed changes in the scope of practice of health

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1 professions;

2 B. ensure that scope of practice reviews by ad hoc
3 review panels are conducted as public hearings with notice
4 given pursuant to the procedures required by Subsection A of
5 Section 12-8-4 NMSA 1978;

6 C. provide staff services to all ad hoc review
7 panels created pursuant to Section 5 of the Scope of Practice
8 Act; and

9 D. provide the legislature with all assistance
10 requested on each proposed change reviewed pursuant to the
11 Scope of Practice Act.

12 SECTION 7. RULES.--The superintendent and each licensing
13 board shall promulgate such rules as are necessary to carry out
14 the provisions of the Scope of Practice Act.

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