

HOUSE BILL 222

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

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AN ACT

RELATING TO HEALTH; ENACTING THE SCOPE OF PRACTICE ACT;  
PROVIDING FOR A PROCESS TO EVALUATE AND CONSIDER PROPOSED  
CHANGES TO THE SCOPE OF PRACTICE OF CERTAIN LICENSED HEALTH  
PROFESSIONS.

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

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1           B. submitting findings, based on an objective  
2 review, to the governor and the legislature.

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

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

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

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

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

17           **SECTION 4. PROPOSED STATUTORY CHANGE--LICENSING BOARD**  
18 **ANALYSIS.--**

19           A. A member of a licensing board or a licensee of a  
20 licensing board or any other person seeking a change in the  
21 scope of practice of a health profession shall notify the  
22 respective licensing board and request a hearing concerning the  
23 proposed change. The licensing board shall notify the  
24 superintendent and shall:

25                   (1) collect data, including information from

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1 the applicant and all other appropriate persons, necessary to  
2 review the proposal;

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

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

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

14 SECTION 5. REVIEW PANELS--APPOINTMENT--DUTIES.--

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

19 B. Membership in the ad hoc review panel shall be  
20 open to one member of each licensing board.

21 C. Each ad hoc review panel shall:

22 (1) include one board member of the licensing  
23 board for the health profession from which the proposed change  
24 in scope of practice originates; and

25 (2) have a minimum of five voting members.

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1           D. Each ad hoc review panel shall be chaired by the  
2 superintendent or the superintendent's designee, who shall be a  
3 nonvoting member. The review panel shall:

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

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

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

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

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

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

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

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

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

24                   (5) conduct the analysis so as to:

25                           (a) consider harm to the public in

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1 physical, emotional, economic and social contexts;

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

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

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

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

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

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

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

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

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

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