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HOUSE BILL 346

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY
MIMI STEWART

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO INSURANCE; ENACTING THE DOMESTIC ABUSE INSURANCE
PROTECTION ACT; PROHIBITING INSURERS FROM DISCRIMINATING AGAINST
PERSONS ON THE BASIS OF DOMESTIC ABUSE; PROVIDING PENALTIES;
AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. A new section of the New Mexico Insurance Code
is enacted to read:

"[NEW MATERIAL] SHORT TITLE. -- Sections 1 through 10 of
this act may be cited as the "Domestic Abuse Insurance
Protection Act". "

Section 2. A new section of the New Mexico Insurance Code
is enacted to read:

"[NEW MATERIAL] PURPOSE OF ACT. -- The purpose of the
Domestic Abuse Insurance Protection Act is to prohibit insurers

Underscored material = new
[bracketed material] = delete

1 from unlawfully discriminating on the basis of domestic abuse by
2 using the fact of domestic abuse or a person's perceived abuse
3 status as an insurance criterion or rating factor. The Domestic
4 Abuse Insurance Protection Act protects victims of domestic
5 abuse, domestic abuse shelters and others from being unlawfully
6 discriminated against in insurance matters. "

7 Section 3. A new section of the New Mexico Insurance Code
8 is enacted to read:

9 "[NEW MATERIAL] DEFINITIONS.--As used in the Domestic
10 Abuse Insurance Protection Act:

11 A. "abuse-related medical condition" means a medical
12 condition sustained by a victim of domestic abuse that arises in
13 whole or in part out of an act or pattern of abuse;

14 B. "abuse status" means the fact or perception that
15 a person is a victim of domestic abuse, irrespective of whether
16 the person has sustained abuse-related medical conditions;

17 C. "domestic abuse" means an act of abuse against a
18 person, an abuse-related medical condition suffered by a person
19 or the abuse status of a person, including a minor, that was
20 caused by a family member or a current or former household
21 member, intimate partner or caretaker, including the following:

22 (1) attempting to cause or intentionally,
23 knowingly or recklessly causing bodily injury to, physical harm
24 to, severe emotional distress to, psychological trauma to or
25 sexual assault on or attempting to rape or raping another

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1 person;

2 (2) knowingly engaging in a course of conduct
3 or repeatedly committing acts, including harassment or stalking,
4 that are intended to or would cause a reasonable person, or do
5 cause a person, to feel terrorized or seriously threatened that
6 death, bodily harm, sexual assault, confinement or restraint may
7 result;

8 (3) subjecting another person to false
9 imprisonment; or

10 (4) attempting to cause or intentionally,
11 knowingly or recklessly causing damage to property for the
12 purpose of intimidating or attempting to control the behavior of
13 another person;

14 D. "insured" means an individual named on a policy
15 as the one with legal rights to the benefits provided by the
16 policy. For group insurance, "insured" includes an individual
17 who is a beneficiary covered by a group policy. For any
18 insurance policy, "insured" does not include a person who
19 commits an act of domestic abuse;

20 E. "insurer" means every person engaged as principal
21 or indemnitor, surety or contractor in the business of entering
22 into contracts of insurance, including life insurance, health
23 insurance, automobile insurance, disability insurance and
24 property and casualty insurance, and includes the insurance
25 services offered by fraternal benefit societies, nonprofit

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[bracketed material] = delete

1 health care plans, health maintenance organizations, prepaid
2 dental services organizations, motor clubs, agents, brokers,
3 solicitors, adjusters and all other persons engaged in a
4 business that is now or later becomes subject to the
5 superintendent's supervision pursuant to the Insurance Code, as
6 well as all alien and foreign insurers delivering or issuing for
7 delivery in New Mexico a certificate or other evidence of
8 insurance coverage;

9 F. "person" means an individual or entity;

10 G. "policy" means a contract of insurance,
11 certificate, indemnity, suretyship or annuity issued by an
12 insurer, including endorsements or riders to an insurance policy
13 or contract, and includes a contract, certificate or agreement
14 offered by an insurer to provide, deliver, arrange for, pay for
15 or reimburse any of the costs of insurance services. As applied
16 to a health plan, "policy" includes a plan that is accident
17 only, credit health, dental, vision, medicare supplement or
18 long-term care insurance, coverage issued as a supplement to
19 liability insurance, short-term or catastrophic health insurance
20 plan and a plan that pays on a cost-incurred basis; and

21 H. "victim of domestic abuse" means a person against
22 whom domestic abuse is directed."

23 Section 4. A new section of the New Mexico Insurance Code
24 is enacted to read:

25 "[NEW MATERIAL] UNFAIR DISCRIMINATION ON THE BASIS OF

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Underscored material = new
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1 DOMESTIC ABUSE PROHIBITED. --

2 A. An insurer or any person employed or contracting
3 with an insurer shall not engage, directly or indirectly, in an
4 unfair discriminatory act or practice against a person on the
5 basis of domestic abuse, including:

6 (1) denying, refusing to issue, renew or
7 reissue or canceling or otherwise terminating a policy,
8 restricting or excluding coverage of a policy or charging a
9 higher premium for a policy on the basis of domestic abuse;

10 (2) excluding or limiting coverage for losses
11 or denying a claim for insurance resulting from or on the basis
12 of domestic abuse;

13 (3) terminating group health coverage for a
14 victim of domestic abuse because coverage was originally issued
15 in the name of an alleged abuser who has divorced, separated
16 from or lost custody of a victim of domestic abuse or because
17 the alleged abuser's coverage has terminated voluntarily or
18 involuntarily. Nothing in this paragraph prohibits an insurer
19 from requiring a victim of domestic abuse to pay the full
20 premium for health insurance coverage or from requiring as a
21 condition of coverage that a victim of domestic abuse reside or
22 work within the insurer's service area, if the requirements are
23 applied to all insureds. The insurer may terminate group health
24 coverage for a victim of domestic abuse after the continuation
25 coverage required by this subsection has been in force for

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Underscored material = new
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1 eight months if the insurer offers conversion to an
2 equivalent individual plan. The continuation coverage required
3 in this subsection may be satisfied by coverage that is provided
4 under the Consolidated Omnibus Budget Reconciliation Act of 1985
5 to a victim of domestic abuse and is not intended to be in
6 addition to coverage provided under that act;

7 (4) disclosing or transferring information
8 relating to an applicant's or insured's abuse status or abuse-
9 related medical condition, the applicant's or insured's address
10 or location, or the applicant's or insured's family, household,
11 social or employment relationship with a victim of domestic
12 abuse, unless the information is disclosed for a purpose related
13 to the direct provision of health care services or for the
14 purpose of complying with an order of the superintendent or a
15 court of competent jurisdiction. The provisions of this
16 paragraph shall not preclude a victim of domestic abuse from
17 obtaining the victim's own insurance records; or

18 (5) requesting information relating to domestic
19 abuse or an applicant's or insured's abuse status, or making use
20 of this information, however obtained, except:

21 (a) for the limited purpose of complying
22 with legal obligations;

23 (b) when verifying a person's claim to be
24 a victim of domestic abuse or to be suffering from an abuse-
25 related medical condition; or

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Underscored material = new
[bracketed material] = delete

1 (c) when cooperating with a victim of
2 domestic abuse in seeking protection from abuse or facilitating
3 the treatment of an abuse-related medical condition.

4 B. The provisions of this section apply to and
5 protect the following persons, excluding a person who commits an
6 act of domestic abuse, from an unfair discriminatory act or
7 practice on the basis of domestic abuse:

- 8 (1) a victim of domestic abuse;
- 9 (2) an applicant for insurance or an insured;
- 10 (3) a person that provides shelter, counseling
11 or protection to victims of domestic abuse;
- 12 (4) a person who employs or is employed by a
13 victim of domestic abuse;
- 14 (5) a person with whom an applicant or insured
15 is known to have a direct, close personal, family or abuse-
16 related counseling relationship;
- 17 (6) a beneficiary of an insurance contract; or
- 18 (7) a participant in an insurance plan."

19 Section 5. A new section of the New Mexico Insurance Code
20 is enacted to read:

21 "NEW MATERIAL INSURANCE COMPANY PROCEDURES TO PROTECT
22 THE SAFETY AND PRIVACY OF VICTIMS OF DOMESTIC ABUSE. -- Insurers
23 shall develop, file with the superintendent and adhere to
24 procedures that specify how the insurer's employees,
25 contractors, agents and brokers shall ensure that their actions

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Underscored material = new
[bracketed material] = delete

1 do not endanger the safety of victims of domestic abuse or
2 breach the confidentiality needs of victims of domestic abuse
3 involved in an insurance action, including claims investigation
4 and subrogation. These procedures shall be developed in
5 consultation with public safety officials who specialize in
6 domestic abuse matters or with a recognized domestic abuse
7 advocacy group. "

8 Section 6. A new section of the New Mexico Insurance Code
9 is enacted to read:

10 "[NEW MATERIAL] RULES AND REGULATIONS. --The superintendent
11 may adopt, in accordance with Section 59A-2-9 NMSA 1978, rules
12 and regulations necessary to administer provisions of the
13 Domestic Abuse Insurance Protection Act. "

14 Section 7. A new section of the New Mexico Insurance Code
15 is enacted to read:

16 "[NEW MATERIAL] ENFORCEMENT BY SUPERINTENDENT. --The
17 superintendent shall enforce provisions of the Domestic Abuse
18 Insurance Protection Act pursuant to the provisions of Section
19 59A-2-11 NMSA 1978. "

20 Section 8. A new section of the New Mexico Insurance Code
21 is enacted to read:

22 "[NEW MATERIAL] PRIVATE REMEDIES. --

23 A. A person likely to be damaged by an unfair
24 discriminatory act under the Domestic Abuse Insurance Protection
25 Act may be granted an injunction against it under the principles

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1 of equity and on terms that the court considers reasonable.
2 Proof of monetary damage or intent to take unfair advantage of
3 any person is not required.

4 B. A person who suffers a loss of insurance, money
5 or property, real or personal, or any other injury as a result
6 of employment by another person of a method, act or practice
7 declared unlawful by the Domestic Abuse Insurance Protection Act
8 may bring an action to recover actual damages or the sum of one
9 hundred dollars (\$100), whichever is greater. When the trier of
10 fact finds that the party charged with an unfair discriminatory
11 practice in violation of the Domestic Abuse Insurance Protection
12 Act has willfully engaged in the practice, the court may award
13 up to three times actual damages or three hundred dollars
14 (\$300), whichever is greater, to the party complaining of the
15 practice.

16 C. The court shall award attorney fees and costs to
17 the party complaining of an unfair discriminatory practice in
18 violation of the Domestic Abuse Insurance Protection Act if he
19 prevails.

20 D. The relief provided in this section is in
21 addition to remedies otherwise available against the same
22 conduct under the common law or other statutes of this state.

23 E. In any class action filed under this section, the
24 court may award damages to the named plaintiffs as provided in
25 Subsection B of this section and may award members of the class

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1 the actual damages suffered by each member of the class as a
2 result of the unlawful practice."

3 Section 9. A new section of the New Mexico Insurance Code
4 is enacted to read:

5 "[NEW MATERIAL] CRIMINAL PENALTY. --Any person who
6 willfully and intentionally violates a provision of the Domestic
7 Abuse Insurance Protection Act is guilty of a misdemeanor and
8 shall be punished for each violation by a fine of not more than
9 one thousand dollars (\$1,000) or by imprisonment for a definite
10 term not to exceed one year or both."

11 Section 10. A new section of the New Mexico Insurance Code
12 is enacted to read:

13 "[NEW MATERIAL] CIVIL PENALTIES. --

14 A. Any person who violates any provision of the
15 Domestic Abuse Insurance Protection Act may be assessed a civil
16 penalty of not more than five thousand dollars (\$5,000) for each
17 violation, except that if the violation is found to be willful
18 and intentional, the civil penalty may be up to ten thousand
19 dollars (\$10,000) for each violation. Every civil penalty shall
20 be imposed by written order of the superintendent made after a
21 hearing held under and in accordance with the provisions of
22 Chapter 59A, Article 4 NMSA 1978.

23 B. A monetary civil penalty imposed may be in
24 addition to an applicable suspension, revocation or denial of a
25 license or certificate of authority.

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1 C. In addition to the authority of the insurance
2 department to bring an action to recover statutory fines and
3 assessments, the insurance department may bring civil actions
4 for penalties in sums not to exceed the criminal fine for each
5 violation of the Domestic Abuse Insurance Protection Act, in
6 lieu of criminal prosecution.

7 D. The penalties contained in this section shall be
8 in addition to any other penalty provided by law."

9 Section 11. Section 59A-1-18 NMSA 1978 (being Laws 1984,
10 Chapter 127, Section 18, as amended) is amended to read:

11 "59A-1-18. GENERAL PENALTY. --

12 A. Unless the same is defined as a felony or
13 misdemeanor under any other law of this state or punishment
14 therefor classifies it otherwise, every violation of the
15 Insurance Code is a petty misdemeanor punishable by a fine not
16 to exceed five hundred dollars (\$500).

17 B. Where other monetary penalty is not expressly
18 provided for, an administrative penalty may be assessed for
19 violations of the Insurance Code. The administrative penalty
20 shall be not over five thousand dollars (\$5,000) for each
21 violation, except that if the violation is to be found willful
22 and intentional, the penalty may be up to ten thousand dollars
23 (\$10,000) for each violation. Every administrative penalty
24 shall be imposed by written order of the superintendent made
25 after hearing held as provided in Chapter 59A, Article 4 NMSA

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1 1978.

2 C. A monetary penalty imposed may be additional to
3 any applicable suspension, revocation or denial of a license or
4 certificate of authority.

5 D. In addition to the authority of the insurance
6 department to bring an action to recover statutory fines and
7 assessments, the insurance department may bring civil actions
8 for penalties in sums not to exceed the criminal fine for each
9 violation of the Insurance Code, in lieu of criminal
10 prosecution.

11 E. The penalties contained in Subsections A through
12 D of this section shall be in addition to any other penalty
13 provided by law. "

14 Section 12. Section 59A-44-41 NMSA 1978 (being Laws 1989,
15 Chapter 388, Section 41) is amended to read:

16 "59A-44-41. APPLICABILITY OF INSURANCE CODE. --To the
17 extent not in conflict with the express provisions of Chapter
18 59A, Article 44 NMSA 1978 and the reasonable implications
19 thereof, the following provisions of the Insurance Code shall
20 also apply as to fraternal benefit societies, and for such
21 purpose a society may therein be referred to as an "insurer":

- 22 A. Chapter 59A, Article 1 NMSA 1978;
- 23 B. Chapter 59A, Article 2 NMSA 1978;
- 24 C. Chapter 59A, Article 4 NMSA 1978;
- 25 D. Sections 59A-8-1 and 59A-8-2 NMSA 1978;

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- 1 E. Section 59A-12-22 NMSA 1978;
- 2 F. Chapter 59A, Article 18 NMSA 1978;
- 3 G. Chapter 59A, Article 19 NMSA 1978;
- 4 H. Chapter 59A, Article [~~24~~] 24A NMSA 1978;
- 5 I. Chapter 59A, Articles 20 and 22 NMSA 1978; [~~and~~]
- 6 J. Chapter 59A, Article 41 NMSA 1978; and
- 7 K. the Domestic Abuse Insurance Protection Act. "

8 Section 13. Section 59A-46-30 NMSA 1978 (being Laws 1993,
9 Chapter 266, Section 29) is amended to read:

10 "59A-46-30. STATUTORY CONSTRUCTION AND RELATIONSHIP TO
11 OTHER LAWS. --

12 A. The provisions of the Insurance Code other than
13 Chapter 59A, Article 46 NMSA 1978 shall not apply to health
14 maintenance organizations except as expressly provided in the
15 Insurance Code and that article. To the extent reasonable and
16 not inconsistent with the provisions of that article, the
17 following articles and provisions of the Insurance Code shall
18 also apply to health maintenance organizations and their
19 promoters, sponsors, directors, officers, employees, agents,
20 solicitors and other representatives [~~and~~]. For the purposes of
21 such applicability, a health maintenance organization may
22 therein be referred to as an "insurer":

- 23 (1) Chapter 59A, Article 1 NMSA 1978;
- 24 (2) Chapter 59A, Article 2 NMSA 1978;
- 25 (3) Chapter 59A, Article 3 NMSA 1978;

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- 1 (4) Chapter 59A, Article 4 NMSA 1978;
- 2 (5) Subsection C of Section 59A-5-22 NMSA 1978;
- 3 (6) Sections 59A-6-2 through 59A-6-4 and
- 4 59A-6-6 NMSA 1978;
- 5 (7) Chapter 59A, Article 8 NMSA 1978;
- 6 (8) Chapter 59A, Article 10 NMSA 1978;
- 7 (9) Section 59A-12-22 NMSA 1978;
- 8 (10) Chapter 59A, Article 16 NMSA 1978;
- 9 (11) Chapter 59A, Article 18 NMSA 1978;
- 10 (12) Chapter 59A, Article 19 NMSA 1978;
- 11 (13) Chapter 59A, Article 23B NMSA 1978;
- 12 (14) Sections 59A-34-9 through 59A-34-13,
- 13 59A-34-23, 59A-34-36 and 59A-34-37 NMSA 1978; [and]
- 14 (15) Chapter 59A, Article 37 NMSA 1978; and
- 15 (16) the Domestic Abuse Insurance Protection
- 16 Act.

17 B. Solicitation of enrollees by a health maintenance
18 organization granted a certificate of authority, or its
19 representatives, shall not be construed as violating any
20 provision of law relating to solicitation or advertising by
21 health professionals, but health professionals shall be
22 individually subject to the laws, rules, regulations and ethical
23 provisions governing their individual professions.

24 C. Any health maintenance organization authorized
25 under the provisions of the Health Maintenance Organization Law

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Underscored material = new
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1 shall not be deemed to be practicing medicine and shall be
2 exempt from the provisions of laws relating to the practice of
3 medicine. "

4 Section 14. Section 59A-47-33 NMSA 1978 (being Laws 1984,
5 Chapter 127, Section 879.32, as amended by Laws 1994, Chapter
6 64, Section 10 and also by Laws 1994, Chapter 75, Section 34) is
7 amended to read:

8 "59A-47-33. OTHER PROVISIONS APPLICABLE. --The provisions
9 of the Insurance Code other than Chapter 59A, Article 47 NMSA
10 1978 shall not apply to health care plans except as expressly
11 provided in the Insurance Code and that article. To the extent
12 reasonable and not inconsistent with the provisions of that
13 article, the following articles and provisions of the Insurance
14 Code shall also apply to health care plans, their promoters,
15 sponsors, directors, officers, employees, agents, solicitors and
16 other representatives; and, for the purposes of such
17 applicability, a health care plan may therein be referred to as
18 an "insurer":

- 19 A. Chapter 59A, Article 1 NMSA 1978;
- 20 B. Chapter 59A, Article 2 NMSA 1978;
- 21 C. Chapter 59A, Article 4 NMSA 1978;
- 22 D. Subsection C of Section 59A-5-22 NMSA 1978;
- 23 E. Sections 59A-6-2 through 59A-6-4 and
24 59A-6-6 NMSA 1978;
- 25 F. Section 59A-7-11 NMSA 1978;

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- 1 G. Chapter 59A, Article 8 NMSA 1978;
- 2 H. Chapter 59A, Article 10 NMSA 1978;
- 3 I. Section 59A-12-22 NMSA 1978;
- 4 J. Chapter 59A, Article 16 NMSA 1978;
- 5 K. Chapter 59A, Article 18 NMSA 1978;
- 6 L. Chapter 59A, Article 19 NMSA 1978;
- 7 M. Subsections B through E of Section
- 8 59A-22-5 NMSA 1978;
- 9 N. Section 59A-22-34.1 NMSA 1978;
- 10 O. Section 59A-22-39 NMSA 1978;
- 11 P. Section 59A-22-40 NMSA 1978;
- 12 Q. Sections 59A-34-9 through 59A-34-13 [~~NMSA 1978~~]
- 13 and [~~Section~~] 59A-34-23 NMSA 1978;
- 14 R. Chapter 59A, Article 37 NMSA 1978, except Section
- 15 59A-37-7 NMSA 1978; [~~and~~]
- 16 S. Section 59A-46-15 NMSA 1978; and
- 17 T. the Domestic Abuse Insurance Protection Act. "

18 Section 15. Section 59A-48-19 NMSA 1978 (being Laws 1984,
19 Chapter 127, Section 898) is amended to read:

20 "59A-48-19. OTHER PROVISIONS APPLICABLE. --In addition to
21 those referred to in [~~this article~~] Chapter 59A, Article 48 NMSA
22 1978, the following articles and provisions of the Insurance
23 Code shall also apply, to the extent reasonably applicable and
24 subject to the provisions of [~~this~~] that article, as to prepaid
25 dental plan organizations, their sponsors, directors, officers,

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1 personnel and representatives and member contracts. For the
2 purposes of this provision such organizations may be referred to
3 as "insurers" and such contracts as "policies":

4 A. Chapter 59A, Article 1 [~~scope of code, initial~~
5 ~~definitions, general penalty~~] NMSA 1978;

6 B. Chapter 59A, Article 2 [~~department of~~
7 ~~insurance~~] NMSA 1978;

8 C. Chapter 59A, Article 4 [~~examinations, hearings~~
9 ~~and appeals~~] NMSA 1978;

10 D. Subsection C of Section [~~89 (certificate of~~
11 ~~authority at all times property of the state)~~] 59A-5-22 NMSA
12 1978;

13 E. Section [~~100 (reciprocity provision)~~] 59A-5-33
14 NMSA 1978;

15 F. Sections [~~101 (fee schedule), 103 (must pay tax~~
16 ~~on withdrawal from state), 104 (penalty for failure to report or~~
17 ~~pay tax or fees) and 106 (preemption and in lieu provision)~~] 59A-6-1, 59A-6-3, 59A-6-4 and 59A-6-6 NMSA 1978;

19 G. Section [~~117 (reinsurance)~~] 59A-7-11 NMSA 1978;

20 H. Chapter 59A, Article 8 [~~assets and liabilities~~]
21 NMSA 1978;

22 I. Chapter 59A, Article 10 [~~administration of~~
23 ~~deposits~~] NMSA 1978;

24 J. Section [~~223 (fiduciary funds -- agents, etc.)~~]
25 59A-12-22 NMSA 1978;

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1 K. Chapter 59A, Article 18 [~~(the insurance~~
2 ~~contract)~~] NMSA 1978;

3 L. Chapter 59A, Article 19 [~~(policy language~~
4 ~~simplification)~~] NMSA 1978; [and]

5 M. Section [556 ~~(records and accounts)~~] 59A-34-10
6 NMSA 1978, as to domestic prepaid dental plans; and

7 N. [~~Article 53 (transitory provisions)~~] the Domestic
8 Abuse Insurance Protection Act. "

9 Section 16. Section 59A-50-21 NMSA 1978 (being Laws 1984,
10 Chapter 127, Section 927) is amended to read:

11 "59A-50-21. OTHER PROVISIONS APPLICABLE. --In addition to
12 those referred to in [~~this article~~] Chapter 59A, Article 50 NMSA
13 1978 as to particular matters, the following articles and
14 provisions of the Insurance Code shall also, to the extent
15 reasonably applicable and not in conflict with the provisions of
16 [~~this article~~] Chapter 59A, Article 50 NMSA 1978 and the
17 reasonable implications thereof, apply as to motor clubs, their
18 sponsors, directors, officers, representatives, personnel and
19 operations. For the purposes of such applicability a motor club
20 may be referred to in such articles and provisions as an
21 "insurer":

22 A. Chapter 59A, Article 1 [~~(scope of code; initial~~
23 ~~definitions; general penalty)~~] NMSA 1978;

24 B. Chapter 59A, Article 2 [~~(department of~~
25 ~~insurance)~~] NMSA 1978;

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1 C. Chapter 59A, Article 4 [~~(examinations, hearings~~
2 ~~and appeals)~~] NMSA 1978;

3 D. Chapter 59A, Article 10 [~~(administration of~~
4 ~~deposits)~~] NMSA 1978;

5 E. Section [223 ~~(fiduciary funds -- agents, etc.)~~]
6 59A-12-22 NMSA 1978;

7 F. Chapter 59A, Article 16 [~~(trade practices and~~
8 ~~frauds)~~] NMSA 1978;

9 G. Chapter 59A, Article 41 [~~(conservation,~~
10 ~~rehabilitation, liquidation); and~~

11 ~~H. Article 53 (transitory provisions)] NMSA 1978;~~

12 and

13 H. the Domestic Abuse Insurance Protection Act. "

14 Section 17. EFFECTIVE DATE. -- The effective date of the
15 provisions of this act is July 1, 1997.

**State of New Mexico
House of Representatives**

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

February 25, 1997

Mr. Speaker:

**Your BUSINESS AND INDUSTRY COMMITTEE, to whom has been
referred**

HOUSE BILL 346

**has had it under consideration and reports same with
recommendation that it DO NOT PASS, but that**

**HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE
FOR HOUSE BILL 346**

**DO PASS, and thence referred to the JUDICIARY
COMMITTEE.**

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HBIC/HB 346

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Respectfully submitted,

Fred Luna, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Hobbs, Olguin, Varela

Absent: Getty

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State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 7, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred
HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE
FOR HOUSE BILL 346

has had it under consideration and reports same with
recommendation that it DO PASS, amended as follows:

1. On page 1, line 19, after "through" strike "11" and insert in lieu thereof "10".
2. On page 2, line 2, after "insurer's" strike "perception" and insert in lieu thereof "determination".
3. On page 2, line 15, after the second occurrence of "the" strike "perception" and insert in lieu thereof "determination".
4. On page 6, line 12, after "information" strike "about acts of domestic abuse or abuse status".

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HJC/HBICS/HB 346

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5. On page 7, line 6, after "hardship" insert "or that is relevant to processing a claim".
6. On page 7, line 6, after "has" strike the remainder of the line and insert in lieu thereof "agreed".
7. On page 7, line 19, after "application" insert "or claim".
8. On page 10, line 13, after "E." strike "A life" and insert in lieu thereof "An".
9. On page 10, line 17, after "this" strike "section" and insert in lieu thereof "subsection".
10. On page 10, line 17, after "action" insert "by the superintendent".
11. On page 10, lines 17 and 18, strike "or enforce".
12. On page 10, line 25, after "abuse-related" strike the semicolon and insert in lieu thereof a period.
13. On page 11, strike lines 1 through 3.
14. On page 11, line 16, before "shall" insert ", upon request,".
15. On page 12, line 1, after the comma insert "or related to

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Underscored material = new
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actual or reasonably anticipated experience, "

16. On page 12, strike lines 21 through 25 and on page 13, strike lines 1 through 9.

17. Renumber the succeeding sections accordingly.

18. On page 14, line 17, after "PENALTY" insert "--
SUPERINTENDENT' S ORDERS".

19. On page 14, line 19, after the comma insert "and except as otherwise provided in this section, "

20. On page 14, line 20, strike "violations" and insert in lieu thereof "a second or subsequent violation".

21. On page 15, line 5, strike the quotation mark.

22. On page 15, between lines 5 and 6, insert the following new subsection:

"C. The superintendent may issue any order he deems necessary or appropriate to prevent or correct any violation, including a first-time violation, of the Domestic Abuse Insurance Protection Act, except the initial order on a first-time violation may not require a suspension, revocation or denial of a license or certificate of authority. If, however, that initial order of the

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superintendent is violated, he may then impose the monetary penalty authorized in this section in addition to any applicable suspension, revocation or denial of a license or certificate of authority or take any other action authorized in the Insurance Code. "".

Respectfully submitted,

Thomas P. Foy, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Mallory, Rios, Sanchez, Stewart

Absent: None

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March 14, 1997

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Mr. President:

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Your CORPORATIONS & TRANSPORTATION COMMITTEE, to whom
has been referred

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HOUSE BUSINESS AND INDUSTRY COMMITTEE
SUBSTITUTE FOR
HOUSE BILL 346, as amended

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has had it under consideration and reports same with
recommendation that it DO PASS, and thence referred to the
JUDICIARY COMMITTEE.

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Respectfully submitted,

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Roman M. Maes, III, Chairman

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: Fidel, Griego, Robinson

Absent: None

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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Mr. President:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BUSINESS AND INDUSTRY COMMITTEE
SUBSTITUTE FOR
HOUSE BILL 346, as amended

has had it under consideration and reports same with
recommendation that it DO PASS.

Respectfully submitted,

Fernando R. Macias, Chairman

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Sanchez, Tsosie, Vernon

Absent: None

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Underscored material = new
[bracketed material] = delete