

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 304

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Roman M. Maes III

AN ACT

RELATING TO THE NEW MEXICO INSURANCE CODE; ENACTING THE OPEN ACCESS TO CHIROPRACTIC CARE ACT; PROVIDING THAT COVERED PERSONS UNDER MANAGED HEALTH CARE PLANS MAY RECEIVE CHIROPRACTIC CARE FROM THE CHIROPRACTIC PHYSICIAN OF THEIR CHOICE.

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

Section 1. Section 59A-46-30 NMSA 1978 (being Laws 1993, Chapter 266, Section 29, as amended) is amended to read:

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

A. The provisions of the Insurance Code other than Chapter 59A, Article 46 NMSA 1978 shall not apply to health maintenance organizations except as expressly provided in the Insurance Code and that article. To the extent reasonable and

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 not inconsistent with the provisions of that article, the
2 following articles and provisions of the Insurance Code shall
3 also apply to health maintenance organizations and their
4 promoters, sponsors, directors, officers, employees, agents,
5 solicitors and other representatives. For the purposes of
6 such applicability, a health maintenance organization may
7 therein be referred to as an "insurer":

- 8 (1) Chapter 59A, Article 1 NMSA 1978;
- 9 (2) Chapter 59A, Article 2 NMSA 1978;
- 10 [~~(3)~~] ~~Chapter 59A, Article 3 NMSA 1978;~~
- 11 ~~(4)~~ (3) Chapter 59A, Article 4 NMSA 1978;
- 12 [~~(5)~~] (4) Subsection C of Section 59A-5-22
13 NMSA 1978;
- 14 [~~(6)~~] (5) Sections 59A-6-2 through 59A-6-4
15 and 59A-6-6 NMSA 1978;
- 16 [~~(7)~~] (6) Chapter 59A, Article 8 NMSA 1978;
- 17 [~~(8)~~] (7) Chapter 59A, Article 10 NMSA 1978;
- 18 [~~(9)~~] (8) Section 59A-12-22 NMSA 1978;
- 19 [~~(10)~~] (9) Chapter 59A, Article 16 NMSA 1978;
- 20 [~~(11)~~] (10) Chapter 59A, Article 18 NMSA
21 1978;
- 22 [~~(12)~~] (11) Chapter 59A, Article 19 NMSA
23 1978;
- 24 [~~(13)~~] (12) Section 59A-22-14 NMSA 1978;
- 25 [~~(14)~~] (13) Chapter 59A, Article 23B NMSA

underscored material = new
[bracketed material] = del ete

1 1978;

2 [~~(15)~~] (14) Sections 59A-34-9 through
3 59A-34-13, 59A-34-17, 59A-34-23, 59A-34-36 and 59A-34-37 NMSA
4 1978;

5 [~~(16)~~] (15) Chapter 59A, Article 37 NMSA
6 1978; [~~and~~
7 ~~(17)~~] (16) the Patient Protection Act; and
8 (17) the Open Access to Chiropractic Care
9 Act.

10 B. Solicitation of enrollees by a health
11 maintenance organization granted a certificate of authority,
12 or its representatives, shall not be construed as violating
13 any provision of law relating to solicitation or advertising
14 by health professionals, but health professionals shall be
15 individually subject to the laws, rules, regulations and
16 ethical provisions governing their individual professions.

17 C. Any health maintenance organization authorized
18 under the provisions of the Health Maintenance Organization
19 Law shall not be deemed to be practicing medicine and shall be
20 exempt from the provisions of laws relating to the practice of
21 medicine. "

22 Section 2. A new Section 59A-58-1 NMSA 1978 is enacted
23 to read:

24 "59A-58-1. [NEW MATERIAL] SHORT TITLE. -- Sections
25 59A-58-1 through 59A-58-9 NMSA 1978 may be cited as the "Open
. 125962. 1

underscored material = new
[bracketed material] = delete

1 Access to Chiropractic Care Act". "

2 Section 3. A new Section 59A-58-2 NMSA 1978 is enacted
3 to read:

4 "59A-58-2. [NEW MATERIAL] PURPOSE. --The purpose of the
5 Open Access to Chiropractic Care Act is to ensure that all New
6 Mexicans have open access to chiropractic care and are able to
7 receive chiropractic care from the chiropractic physician of
8 their choice at affordable prices. "

9 Section 4. A new Section 59A-58-3 NMSA 1978 is enacted
10 to read:

11 "59A-58-3. [NEW MATERIAL] DEFINITIONS. --As used in the
12 Open Access to Chiropractic Care Act:

13 A. "chiropractic care" means any service provided
14 by a chiropractic physician pursuant to the Chiropractic
15 Physician Practice Act;

16 B. "covered person" means an individual who is
17 entitled to receive health care benefits provided by a managed
18 health care plan;

19 C. "managed health care plan" means a health care
20 insurer or a provider service network when offering a benefit
21 that either requires a covered person to use, or creates
22 incentives, including financial incentives, for a covered
23 person to use health care providers managed, owned, under
24 contract with or employed by the health care insurer or
25 provider service network. "Managed health care plan" includes

underscored material = new
[bracketed material] = delete

1 a health maintenance organization but does not include a
2 health care insurer or provider service network offering a
3 traditional fee-for-service indemnity benefit or a benefit
4 that covers only short-term travel, accident-only, limited
5 benefit, student health plan or specified disease policies;

6 D. "participating chiropractic provider" means an
7 individual who is registered by a managed health care plan as
8 a participating chiropractic provider and:

9 (1) is a graduate of a school of chiropractic
10 accredited by the council on chiropractic education;

11 (2) is licensed as a chiropractic physician
12 in good standing pursuant to the Chiropractic Physician
13 Practice Act; and

14 (3) maintains professional liability
15 insurance in a minimum amount of six hundred thousand dollars
16 (\$600,000); and

17 E. "primary care chiropractic physician" is an
18 individual who is registered by a managed health care plan as
19 a primary care chiropractic physician and:

20 (1) meets the requirements for a
21 participating chiropractic provider; and

22 (2) prior to January 1, 2001, is certified in
23 chiropractic orthopedics or in chiropractic neurology; or

24 (3) subsequent to December 31, 2000, is
25 certified in integrative medicine. "

underscored material = new
[bracketed material] = delete

1 Section 5. A new Section 59A-58-4 NMSA 1978 is enacted
2 to read:

3 "59A-58-4. [NEW MATERIAL] CHIROPRACTIC CARE REQUIRED. -- A
4 managed health care plan shall provide chiropractic care as a
5 basic health care benefit. A covered individual who wishes to
6 receive chiropractic care shall be afforded the opportunity to
7 select a participating chiropractic provider and a primary
8 care chiropractic physician from a written list of
9 participating chiropractic providers and primary care
10 chiropractic physicians provided by the managed health care
11 plan to the covered person. "

12 Section 6. A new Section 59A-58-5 NMSA 1978 is enacted
13 to read:

14 "59A-58-5. [NEW MATERIAL] PROCEDURES FOR CHIROPRACTIC
15 CARE. -- A covered person shall receive chiropractic care under
16 the procedures and subject to the limitations in this section.

17 A. A covered individual shall select a
18 participating chiropractic provider and a primary care
19 chiropractic physician from the list provided by the managed
20 health care plan.

21 B. The selected participating chiropractic
22 provider shall examine the covered individual in a manner
23 sufficient to permit the participating chiropractic provider
24 to prepare an initial chiropractic care treatment plan.

25 C. The participating chiropractic provider shall

underscored material = new
[bracketed material] = delete

1 provide the initial chiropractic care treatment plan to the
2 selected primary care chiropractic physician.

3 D. The primary care chiropractic physician shall
4 review the initial chiropractic care treatment plan and advise
5 the participating chiropractic provider if the plan is
6 acceptable. If the primary care chiropractic physician finds
7 the initial plan to be acceptable, the participating
8 chiropractic provider shall provide chiropractic care to the
9 covered individual pursuant to the plan, provided that costs
10 paid by a managed health care plan for chiropractic care
11 described in the initial plan shall not exceed five hundred
12 dollars (\$500) annually.

13 E. The participating chiropractic provider shall
14 notify the primary care chiropractic physician and submit an
15 additional chiropractic care treatment plan if the
16 participating chiropractic provider determines that additional
17 chiropractic care is required in addition to that approved in
18 the initial chiropractic care treatment plan, or in a
19 previously approved additional chiropractic care treatment
20 plan. Upon receipt of the notification and plan, the primary
21 care chiropractic physician shall physically examine the
22 covered person in a manner sufficient to ensure that the
23 additional chiropractic care is required. If the primary care
24 chiropractic physician finds the additional chiropractic care
25 treatment plan to be acceptable, the participating

underscored material = new
[bracketed material] = delete

1 chiropractic provider shall provide chiropractic care to the
2 covered person as described in the plan, provided that costs
3 paid by a managed health care plan for chiropractic care
4 described in one or more additional chiropractic care
5 treatment plans shall not exceed five hundred dollars (\$500)
6 annually.

7 F. If a primary care chiropractic physician
8 disagrees with the substance of either the initial or an
9 additional chiropractic care treatment plan, the primary care
10 chiropractic physician and the participating chiropractic
11 provider shall make a good faith effort to resolve the
12 disagreement. If the disagreement cannot be resolved by the
13 primary care chiropractic physician and the participating
14 chiropractic provider, the managed health care plan shall
15 resolve the matter. The decision of the managed health care
16 plan is binding on the primary care chiropractic physician and
17 the participating chiropractic provider; provided that the
18 participating chiropractic provider may choose not to provide
19 chiropractic care to the covered person if the participating
20 chiropractic provider disagrees with the decision of the
21 managed health care plan. "

22 Section 7. A new Section 59A-58-6 NMSA 1978 is enacted
23 to read:

24 "59A-58-6. [NEW MATERIAL] ADDITIONAL CHIROPRACTIC
25 CARE. -- Chiropractic care provided under the Open Access to

underscored material = new
[bracketed material] = delete

1 Chiropractic Care Act is in addition to any other chiropractic
2 care that may be provided under other provisions of the
3 Insurance Code or as otherwise provided by law. "

4 Section 8. A new Section 59A-58-7 NMSA 1978 is enacted
5 to read:

6 "59A-58-7. [NEW MATERIAL] PARTICIPATING CHIROPRACTIC
7 PROVIDER AND PRIMARY CARE CHIROPRACTIC PHYSICIAN EXCLUSIVITY--
8 ANNUAL PAYMENTS TO A PRIMARY CARE CHIROPRACTIC PHYSICIAN. --

9 A. For the same covered person, a chiropractic
10 physician shall not serve as both the participating
11 chiropractic provider and the primary care chiropractic
12 physician.

13 B. A primary care chiropractic physician shall be
14 paid an annual consultation fee of two hundred dollars (\$200)
15 by the managed health care plan for the professional
16 management of a covered person who receives chiropractic care
17 under the provisions of the Open Access to Chiropractic Care
18 Act. "

19 Section 9. A new Section 59A-58-8 NMSA 1978 is enacted
20 to read:

21 "59A-58-8. [NEW MATERIAL] PREMIUMS-- COPAYMENTS--
22 LIMITATIONS. --

23 A. For providing coverage required by the Open
24 Access to Chiropractic Care Act, a managed health care plan
25 may require the payment of an annual premium of not more than

. 125962. 1

underscored material = new
[bracketed material] = delete

1 one hundred eighty dollars (\$180) for each covered person.

2 B. A managed health care plan may require a
3 covered person to make a copayment of not more than ten
4 dollars (\$10.00) for each time that chiropractic care is
5 provided by a participating chiropractic provider or
6 chiropractic care consultation, including a physical
7 examination, is provided by a primary care chiropractic
8 physician. "

9 Section 10. A new Section 59A-58-9 NMSA 1978 is enacted
10 to read:

11 "59A-58-9. [NEW MATERIAL] NEW MEXICO LICENSE REQUIRED. --

12 A. Professional supervision of a participating
13 chiropractic provider or a primary care chiropractic physician
14 performing chiropractic care under the Open Access to
15 Chiropractic Care Act may only be provided by a chiropractic
16 physician licensed pursuant to the Chiropractic Physician
17 Practice Act.

18 B. A chiropractic physician licensed pursuant to
19 the Chiropractic Physician Practice Act may seek registration
20 by a managed health care plan pursuant to the Open Access to
21 Chiropractic Care Act as a participating chiropractic
22 provider, a primary care chiropractic physician or both. "

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3
4
5 February 10, 1999

6
7
8 Mr. President:

9
10 Your PUBLIC AFFAIRS COMMITTEE, to whom has been
11 referred

12
13 SENATE BILL 304

14
15 has had it under consideration and reports same with
16 recommendation that it DO PASS, and thence referred to the
17 CORPORATIONS & TRANSPORTATION COMMITTEE.

18
19 Respectfully submitted,

Shannon Robinson, Chairman

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 3 For 2 Against

Yes: 3

No: Boitano, Ingle

Excused: Howes, Leavell, Stockard, Smith

Absent: None

S0304PA1

underscored material = new
[bracketed material] = delete

1 **FORTY-FOURTH LEGISLATURE**

2 **FIRST SESSION, 1999**

3
4
5
6 **March 16, 1999**

7
8
9 **Mr. Speaker:**

10
11 **Your BUSINESS AND INDUSTRY COMMITTEE, to whom has**
12 **been referred**

13
14 **SENATE BILL 304, as amended**

15
16 **has had it under consideration and reports same with**
17 **recommendation that it DO PASS, amended as follows:**

18 **1. Strike all Senate Corporations And Transportation**
19 **Committee Amendments.**

20
21 **2. On page 1, line 11, after the semicolon strike the**
22 **remainder of the line and strike all of lines 12 through 15**
23 **and insert in lieu thereof "PROVIDING FOR CERTAIN DUTIES OF**
24 **MANAGED HEALTH CARE PLANS REGARDING CHIROPRACTIC CARE."**

25 **3. On page 1, line 18, through page 10, line 22,**

. 125962. 1

underscored material = new
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HBIC/SB 304a

Page 14

strike Sections 1 through 10 and insert the following:

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

"[NEW MATERIAL] MANAGED HEALTH CARE PLANS--DUTIES REGARDING CHIROPRACTIC CARE.--

A. As used in this section:

(1) "chiropractic care" means any service provided by a chiropractic physician pursuant to the Chiropractic Physician Practice Act;

(2) "covered person" means an individual who is entitled to receive health care benefits provided by a managed health care plan; and

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HBIC/SB 304a

Page 15

(3) "managed health care plan" means a health care insurer or a provider service network when offering a benefit that either requires a covered person to use, or creates incentives, including financial incentives, for a covered person to use health care providers managed, owned, under contract with or employed by the health care insurer or provider service network. "Managed health care plan" includes a health maintenance organization but does not include a health care insurer or provider service network offering a traditional fee-for-service indemnity benefit or a benefit that covers only short-term travel, accident-only, limited benefit, student health plan or specified disease policies.

B. Each managed health care plan shall, at the time of enrollment and upon request thereafter, notify each covered person directly or, in the case of a group policy, through the employer whether chiropractic care benefits are available under that covered person's plan.

C. No primary care provider, under contract with or employed by a managed health care plan, shall intentionally misinform a covered person of the existence or

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HBIC/SB 304a

Page 16

availability of chiropractic care benefits under that covered person's plan.

D. The secretary of health shall appoint a voluntary interdisciplinary task force, composed of representatives of managed health care plans and health care providers that provide services to covered persons under managed health care plans. The task force shall consider means by which primary care providers can be educated about non-allopathic care and assure that such care is available to covered persons when clinically indicated. The task force shall make recommendations to the secretary."",

and thence referred to the JUDICIARY COMMITTEE.

underscored material = new
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 HBIC/SB 304a

Page 17

4
5 Respectfully submitted,

8 _____
9 Fred Luna, Chairman

11 Adopted _____ Not Adopted _____
12 (Chief Clerk) (Chief Clerk)

14 Date _____

16 The roll call vote was 12 For 0 Against

17 Yes: 12

18 Excused: None

19 Absent: None

21 129049.1

22 J:\99BillsWP\S0304

25 . 125962.1

underscored material = new
[bracketed material] = delete

1 **FORTY- FOURTH LEGISLATURE**
2 **FIRST SESSION, 1999**

3
4 **March 16, 1999**

5
6
7
8 **Mr. Speaker:**

9
10 **Your BUSINESS AND INDUSTRY COMMITTEE, to whom has**
11 **been referred**

12 **SENATE BILL 304, as amended**

13
14 **has had it under consideration and reports same with**
15 **recommendation that it DO PASS, amended as follows:**

16
17 **1. Strike all Senate Corporations And Transportation**
18 **Committee Amendments.**

19
20 **2. On page 1, line 11, after the semicolon strike the**
21 **remainder of the line and strike all of lines 12 through 15**
22 **and insert in lieu thereof "PROVIDING FOR CERTAIN DUTIES OF**
23 **MANAGED HEALTH CARE PLANS REGARDING CHIROPRACTIC CARE."**

24 **3. On page 1, line 18, through page 10, line 22,**
25 **strike Sections 1 through 10 and insert the following:**

. 125962. 1

underscored material = new
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HBIC/SB 304a

Page 19

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

"[NEW MATERIAL] MANAGED HEALTH CARE PLANS--DUTIES
REGARDING CHIROPRACTIC CARE.--

A. As used in this section:

(1) "chiropractic care" means any service
provided by a chiropractic physician pursuant to the
Chiropractic Physician Practice Act;

(2) "covered person" means an individual who
is entitled to receive health care benefits provided by a
managed health care plan; and

underscored material = new
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 HBIC/SB 304a

Page 20

4
5 (3) "managed health care plan" means a health
6 care insurer or a provider service network when offering a
7 benefit that either requires a covered person to use, or
8 creates incentives, including financial incentives, for a
9 covered person to use health care providers managed, owned,
10 under contract with or employed by the health care insurer
11 or provider service network. "Managed health care plan"
12 includes a health maintenance organization but does not
13 include a health care insurer or provider service network
14 offering a traditional fee-for-service indemnity benefit or
15 a benefit that covers only short-term travel, accident-only,
16 limited benefit, student health plan or specified disease
17 policies.

18 B. Each managed health care plan shall, at the
19 time of enrollment and upon request thereafter, notify each
20 covered person directly or, in the case of a group policy,
21 through the employer whether chiropractic care benefits are
22 available under that covered person's plan.

23 C. No primary care provider, under contract with
24 or employed by a managed health care plan, shall
25 intentionally misinform a covered person of the existence or
availability of chiropractic care benefits under that
covered person's plan.

. 125962. 1

underscored material = new
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 HBIC/SB 304a

Page 21

4
5 D. The secretary of health shall appoint a
6 voluntary interdisciplinary task force, composed of
7 representatives of managed health care plans and health care
8 providers that provide services to covered persons under
9 managed health care plans. The task force shall consider
10 means by which primary care providers can be educated about
11 non-allopathic care and assure that such care is available
12 to covered persons when clinically indicated. The task
13 force shall make recommendations to the secretary."".,

14 and thence referred to the JUDICIARY COMMITTEE.

15
16
17
18
19
20 Respectfully submitted,

21
22
23 _____
24 Fred Luna, Chairman
25

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 HBIC/SB 304a

Page 22

4 Adopted _____ Not Adopted _____
5 (Chief Clerk) (Chief Clerk)

7 Date _____

9 The roll call vote was 12 For 0 Against

10 Yes: 12

11 Excused: None

12 Absent: None

14 129049.1

15 J: \99BillSWP\S0304

underscored material = new
[bracketed material] = delete

. 125962. 1