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**SENATE BILL 59**

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

**INTRODUCED BY**

**Bernadette M Sanchez**

**AN ACT**

**RELATING TO TAXATION; PERMITTING CERTAIN LICENSED COUNSELORS,  
THERAPISTS AND SOCIAL WORKERS TO DEDUCT FROM GROSS RECEIPTS  
CERTAIN PAYMENTS FROM MANAGED HEALTH CARE PROVIDERS.**

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

**Section 1. Section 7-9-93 NMSA 1978 (being Laws 2004,  
Chapter 116, Section 6) is amended to read:**

**"7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS FOR  
SERVICES PROVIDED BY HEALTH CARE PRACTITIONER. --**

**A. Receipts from payments by a managed health care  
provider or health care insurer for commercial contract  
services or medicare part C services provided by a health care  
practitioner that are not otherwise deductible pursuant to  
another provision of the Gross Receipts and Compensating Tax  
Act may be deducted from gross receipts; provided that the**

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1 services are within the scope of practice of the person  
2 providing the service. Receipts from fee-for-service payments  
3 by a health care insurer may not be deducted from gross  
4 receipts. The deduction provided by this section shall be  
5 separately stated by the taxpayer.

6 B. For the purposes of this section:

7 (1) "commercial contract services" means  
8 health care services performed by a health care practitioner  
9 pursuant to a contract with a managed health care provider or  
10 health care insurer other than those health care services  
11 provided for medicare patients pursuant to Title 18 of the  
12 federal Social Security Act or for medicaid patients pursuant  
13 to Title 19 or Title 21 of the federal Social Security Act;

14 (2) "health care insurer" means a person that:

15 (a) has a valid certificate of authority  
16 in good standing pursuant to the New Mexico Insurance Code to  
17 act as an insurer, health maintenance organization or nonprofit  
18 health care plan or prepaid dental plan; and

19 (b) contracts to reimburse licensed  
20 health care practitioners for providing basic health services  
21 to enrollees at negotiated fee rates;

22 (3) "health care practitioner" means:

23 (a) a chiropractic physician licensed  
24 pursuant to the provisions of the Chiropractic Physician  
25 Practice Act;

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1 (b) a dentist or dental hygienist  
2 licensed pursuant to the Dental Health Care Act;

3 (c) a doctor of oriental medicine  
4 licensed pursuant to the provisions of the Acupuncture and  
5 Oriental Medicine Practice Act;

6 (d) a professional clinical mental  
7 health counselor, marriage and family therapist or professional  
8 art therapist licensed pursuant to the provisions of the  
9 Counseling and Therapy Practice Act;

10 [~~(d)~~] (e) an optometrist licensed  
11 pursuant to the provisions of the Optometry Act;

12 [~~(e)~~] (f) an osteopathic physician  
13 licensed pursuant to the provisions of Chapter 61, Article 10  
14 NMSA 1978 or an osteopathic physician's assistant licensed  
15 pursuant to the provisions of the Osteopathic Physicians'  
16 Assistants Act;

17 [~~(f)~~] (g) a physical therapist licensed  
18 pursuant to the provisions of the Physical Therapy Act;

19 [~~(g)~~] (h) a physician or physician  
20 assistant licensed pursuant to the provisions of Chapter 61,  
21 Article 6 NMSA 1978;

22 [~~(h)~~] (i) a podiatrist licensed pursuant  
23 to the provisions of the Podiatry Act;

24 [~~(i)~~] (j) a psychologist licensed  
25 pursuant to the provisions of the Professional Psychologist

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1 Act;

2 [~~(j)~~] (k) a registered lay midwife  
3 registered by the department of health;

4 [~~(k)~~] (l) a registered nurse or licensed  
5 practical nurse licensed pursuant to the provisions of the  
6 Nursing Practice Act;

7 [~~(l)~~] (m) a registered occupational  
8 therapist licensed pursuant to the provisions of the  
9 Occupational Therapy Act;

10 [~~(m)~~] (n) a respiratory care  
11 practitioner licensed pursuant to the provisions of the  
12 Respiratory Care Act; ~~and~~

13 ~~(n)~~ (o) a speech-language pathologist  
14 or audiologist licensed pursuant to the Speech-Language  
15 Pathology, Audiology and Hearing Aid Dispensing Practices Act;  
16 and

17 (p) a baccalaureate social worker,  
18 master social worker or independent social worker licensed  
19 pursuant to the provisions of the Social Work Practice Act;

20 (4) "managed health care provider" means a  
21 person that provides for the delivery of comprehensive basic  
22 health care services and medically necessary services to  
23 individuals enrolled in a plan through its own employed health  
24 care providers or by contracting with selected or participating  
25 health care providers. "Managed health care provider" includes

1 only those persons that provide comprehensive basic health care  
2 services to enrollees on a contract basis, including the  
3 following:

- 4 (a) health maintenance organizations;
- 5 (b) preferred provider organizations;
- 6 (c) individual practice associations;
- 7 (d) competitive medical plans;
- 8 (e) exclusive provider organizations;
- 9 (f) integrated delivery systems;
- 10 (g) independent physician-provider  
11 organizations;
- 12 (h) physician hospital-provider  
13 organizations; and
- 14 (i) managed care services organizations;
- 15 and

16 (5) "medicare part C services" means services  
17 performed pursuant to a contract with a managed health care  
18 provider for medicare patients pursuant to Title 18 of the  
19 federal Social Security Act. "

20 Section 2. EFFECTIVE DATE. --The effective date of the  
21 provisions of this act is January 1, 2006.