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SENATE BILL 381

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

INTRODUCED BY

Timothy Z. Jennings

AN ACT

RELATING TO HEALTH; ENACTING THE PATIENT HEALTH SAFETY 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  
"Patient Health Safety Act".

Section 2. PURPOSE. -- The purpose of the Patient Health  
Safety Act is to:

A. provide a procedure for 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. make recommendations of the review available to

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1 the legislature.

2 Section 3. DEFINITIONS. -- As used in the Patient Health  
3 Safety Act:

4 A. "commission" means the New Mexico health policy  
5 commission;

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

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

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

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

18 A. A member of a licensing board, a licensee of the  
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 on the  
22 proposal. The licensing board shall notify the commission and  
23 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 commission.

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 commission 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 panel:

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

22 (2) may include one additional member from the  
23 profession from which the proposed change originates who shall  
24 be from the professional association of that profession; and

25 (3) shall have at least one-fourth of its

1 membership as individuals who have no economic interest in the  
2 profession originating the request for a change in scope of  
3 practice.

4 B. Each panel shall be chaired by the director of  
5 the commission or the director's designee, who shall be a  
6 nonvoting member. The panel shall:

7 (1) familiarize itself with the commission's  
8 rules on procedures and criteria for such reviews;

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

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

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

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

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

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

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

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

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- (5) conduct the analysis so as to:
  - (a) consider harm to the public in physical, emotional, economic and social contexts;
  - (b) ensure that consideration of economic and social benefit does not outweigh the potential of significant physical harm to the consumer; and
  - (c) ensure that evidence of potential harm is clearly and directly attributable to the proposal; and
- (6) provide to the New Mexico legislative council, the legislative finance committee and the legislative health and human services committee a full report, including legislative recommendations, on each proposed change in scope of practice brought before the commission.

Section 6. COMMISSION--SCOPE OF PRACTICE REVIEWS AND CRITERIA--POWERS AND DUTIES.--The commission shall:

- A. notify annually each licensing board and, whenever possible, each professional association and group of health professions, of both the licensing board's and the commission's responsibilities to review proposed changes in the scope of practice of health professions;
- B. ensure that scope of practice reviews by ad hoc review panels are conducted as public hearings with notice given pursuant to the procedures required by Subsection A of Section 12-8-4 NMSA 1978;
- C. provide staff services to all ad hoc review

1 panels created pursuant to Section 5 of the Patient Health  
2 Safety Act; and

3 D. provide the legislature with all assistance  
4 requested on the proposal.

5 Section 7. RULES. --The commission and each licensing  
6 board shall promulgate such rules as are necessary to carry out  
7 the provisions of the Patient Health Safety Act.

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