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SENATE BILL 504

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

INTRODUCED BY

Ben D. Altamirano

AN ACT

**RELATING TO INSURANCE; PROVIDING FOR NONPROFIT REPRESENTATION
ON THE BOARD OF DIRECTORS OF THE HEALTH INSURANCE ALLIANCE;
CHANGING THE HEALTH PLAN PREMIUM RATE STRUCTURE; PROVIDING FOR
OUTREACH ACTIVITIES RELATED TO INSURANCE COVERAGE.**

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

**Section 1. Section 59A-56-4 NMSA 1978 (being Laws 1994,
Chapter 75, Section 4, as amended) is amended to read:**

"59A-56-4. ALLIANCE CREATED-- BOARD CREATED. --

**A. The "New Mexico health insurance alliance" is
created as a nonprofit public corporation for the purpose of
providing increased access to health insurance in the state.
All insurance companies authorized to transact health insurance
business in this state, nonprofit health care plans, health
maintenance organizations and self-insurers not subject to**

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1 federal preemption shall organize and be members of the
2 alliance as a condition of their authority to offer health
3 insurance in this state, except for an insurance company that
4 is licensed under the Prepaid Dental Plan Law or a company that
5 is solely engaged in the sale of dental insurance and is
6 licensed under a provision of the Insurance Code.

7 B. The alliance shall be governed by a board of
8 directors constituted pursuant to the provisions of this
9 section. The board is a governmental entity for purposes of
10 the Tort Claims Act, but neither the board nor the alliance
11 shall be considered a governmental entity for any other
12 purpose.

13 C. ~~[The superintendent shall, within sixty days~~
14 ~~after March 4, 1994, give notice to all members of the time and~~
15 ~~place for the initial organizational meeting of the alliance.]~~
16 Each member shall be entitled to one vote in person or by proxy
17 at ~~[the organizational]~~ each meeting.

18 D. The alliance shall operate subject to the
19 supervision and approval of the board. The board shall consist
20 of:

21 (1) five directors, elected by the members,
22 who shall be officers or employees of members and shall consist
23 of ~~[one representative of a nonprofit health care plan]~~ two
24 representatives of health maintenance organizations and ~~[two]~~
25 three representatives of other types of members;

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1 (2) five directors, appointed by the governor,
2 who shall be officers, general partners or proprietors of small
3 employers, one director of which shall represent nonprofit
4 corporations;

5 (3) four directors, appointed by the governor,
6 who shall be employees of small employers; and

7 (4) the superintendent or [~~his~~] the
8 superintendent's designee, who shall be a nonvoting member,
9 except when [~~his~~] the superintendent's vote is necessary to
10 break a tie.

11 E. The superintendent shall serve as chairman of
12 the board unless [~~he~~] the superintendent declines, in which
13 event [~~he~~] the superintendent shall appoint the chairman.

14 F. The directors elected by the members shall be
15 elected for initial terms of three years or less, staggered so
16 that the term of at least one director expires on June 30 of
17 each year. The directors appointed by the governor shall be
18 appointed for initial terms of three years or less, staggered
19 so that the term of at least one director expires on June 30 of
20 each year. Following the initial terms, directors shall be
21 elected or appointed for terms of three years. A director
22 whose term has expired shall continue to serve until [~~his~~] a
23 successor is elected or appointed and qualified.

24 G. Whenever a vacancy on the board occurs, the
25 electing or appointing authority of the position that is vacant

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1 shall fill the vacancy by electing or appointing an individual
2 to serve the balance of the unexpired term; provided, when a
3 vacancy occurs in one of the director's positions elected by
4 the members, the superintendent is authorized to appoint a
5 temporary replacement director until the next scheduled
6 election of directors elected by the members is held. The
7 individual elected or appointed to fill a vacancy shall meet
8 the requirements for initial election or appointment to that
9 position.

10 H. Directors may be reimbursed by the alliance as
11 provided in the Per Diem and Mileage Act for nonsalaried public
12 officers, but shall receive no other compensation, perquisite
13 or allowance from the alliance. "

14 Section 2. Section 59A-56-8 NMSA 1978 (being Laws 1994,
15 Chapter 75, Section 8, as amended) is amended to read:

16 "59A-56-8. APPROVED HEALTH PLAN. --

17 A. An approved health plan shall conform to the
18 alliance's approved health plan design criteria. The board may
19 allow more than one plan design for approved health plans. A
20 member may provide one approved health plan for each plan
21 design approved by the board.

22 B. The board shall designate plan designs for
23 approved health plans. The board may designate plan designs
24 for an approved health plan that provides catastrophic coverage
25 or other benefit plan designs.

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1 C. Each approved health plan shall offer a premium
2 that is no greater than [~~fifteen percent over and no less than~~
3 ~~fifteen percent under~~] the average of the standard rate index
4 for plans with the same characteristics.

5 [~~D. Each approved health plan offered to an~~
6 ~~eligible individual shall offer a premium that is no more than~~
7 ~~twenty-five percent over and no less than twenty-five percent~~
8 ~~under the average of the standard risk rate index determined~~
9 ~~pursuant to Section 59A-56-23 NMSA 1978.~~

10 ~~E.]~~ D. Any member that provides or offers to renew
11 a group health insurance contract providing health insurance
12 benefits to employees of the state, a county, a municipality or
13 a school district for which public funds are contributed shall
14 offer at least one approved health plan to small employers and
15 eligible individuals; provided, however, if a member does not
16 offer anywhere in the United States a plan that meets
17 substantially the design criteria of an approved health plan,
18 the member shall not be required to offer an approved health
19 plan.

20 [~~F.]~~ E. If a plan design approved by the board is
21 not offered by any member already offering an approved health
22 plan, but a member offers a substantially similar plan design
23 outside the alliance, the board may require the member to offer
24 that plan design as an approved health plan through the
25 alliance.

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1 ~~[G.]~~ F. A member required to offer, and offering,
2 an approved health plan pursuant to the requirement of
3 Subsection ~~[E]~~ D of this section shall continue to offer that
4 plan for five consecutive years after the date the member was
5 last required to offer the plan. A member offering an approved
6 health plan but not required to offer it pursuant to the cited
7 subsection may withdraw the plan but shall continue to offer it
8 for five consecutive years after the date notice of future
9 withdrawal is given to the board unless:

10 (1) the member substitutes another approved
11 health plan for the plan withdrawn; or

12 (2) the board allows the plan to be withdrawn
13 because it imposes a serious hardship upon the member.

14 ~~[H.]~~ G. No member shall be required to offer an
15 approved health plan if the member notifies the superintendent
16 in writing that it will no longer offer health insurance, life
17 insurance or annuities in the state, except for renewal of
18 existing contracts, provided that:

19 (1) the member does not offer or provide
20 health insurance, life insurance or annuities for a period of
21 five years from the date of notification to the superintendent
22 to any person in the state who is not covered by the member
23 through a health insurance policy in effect on the date of the
24 notification; and

25 (2) with respect to health or life insurance

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1 policies or annuities in effect on the date of notification to
2 the superintendent, the member continues to comply with all
3 applicable laws and regulations governing the provision of
4 insurance in this state, including the payment of applicable
5 taxes, fees and assessments. "

6 Section 3. Section 59A-56-23 NMSA 1978 (being Laws 1994,
7 Chapter 75, Section 23, as amended) is amended to read:

8 "59A-56-23. RATES--STANDARD RISK RATE--EXPERIENCE RATING
9 PROHIBITED. --

10 A. The alliance shall determine a standard risk
11 rate index by actuarially calculating the average index rates
12 that the insurer has filed under the requirements of the Small
13 Group Rate and Renewability Act with the benefits similar to
14 the alliance's standard approved health plan. A standard risk
15 rate based on age and other appropriate demographic
16 characteristics may be used. [~~No standard risk rate shall be~~
17 ~~more than fifteen percent higher or fifteen percent lower than~~
18 ~~the average index rate.~~] In determining the standard risk rate,
19 the alliance shall consider the benefits provided by the
20 approved health plan.

21 B. Experience rating is not allowed other than for
22 reinsurance purposes.

23 C. All rates and rate schedules shall be submitted
24 to the superintendent for approval prior to use. "

25 Section 4. Section 59A-56-25 NMSA 1978 (being Laws 1994,
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Chapter 75, Section 25) is amended to read:

"59A-56-25. EXPANDED SERVICE DEVELOPMENT. -- The
[~~department of~~] insurance division of the commission, in
cooperation with the alliance, shall develop a plan to provide
health insurance coverage for uninsured children, individuals
and other employers, including outreach and technical
assistance activities conducted by the alliance to increase
employer, employee and public awareness of available health
insurance coverage options and to assist employers in securing
or retaining health insurance coverage for employees and their
dependents. "

Section 5. EFFECTIVE DATE. --The effective date of the
provisions of this act is July 1, 2005.