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HOUSE MEMORIAL 71

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Thomas A. Anderson

A MEMORIAL

REQUESTING THE NEW MEXICO HEALTH POLICY COMMISSION TO CREATE A  
TASK FORCE TO STUDY REASONABLE LIMITS ON THE DUTY OF HEALTH  
CARE PROFESSIONALS TO RESPOND TO DISASTERS.

WHEREAS, health care professionals have the skills and  
often have a duty in emergency situations to come to the rescue  
of a person or persons in need; and

WHEREAS, most state good Samaritan laws provide civil  
immunity for some individuals acting in good faith to provide  
assistance in an emergency, and these laws exist to create  
incentives for individuals to voluntarily come to the aid of  
another without the fear of liability; and

WHEREAS, New Mexico's good Samaritan law provides this  
civil immunity, and defines an emergency to include motor  
vehicle accidents or collisions, acts of God and other

underscoring material = new  
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1 accidents and events of similar nature; and

2 WHEREAS, in the wake of large scale, catastrophic  
3 disasters, whether natural, biological or the result of war or  
4 terrorist activities, many more issues arise than fear of civil  
5 liability; and

6 WHEREAS, these issues have ethical, clinical, professional  
7 and personal elements that must be considered when a  
8 professional elects to respond to the disaster; and

9 WHEREAS, many of these elements came to the awareness of  
10 the general public in the aftermath of hurricane Katrina when  
11 two nurses and a physician were accused of giving four patients  
12 at a New Orleans hospital a "lethal cocktail" thereby ending  
13 their lives; and

14 WHEREAS, in that hospital, at that time, there was no  
15 electricity and no functioning plumbing and there were rising  
16 floodwaters in the building, very few remaining staff, patients  
17 dying and no hope of rescue; and

18 WHEREAS, the ethical dilemmas faced by health care  
19 professionals in situations such as that resemble a  
20 battlefield, as the resources of the setting are inadequate to  
21 appropriately address the medical needs of the patients; and

22 WHEREAS, health care professionals may feel the only  
23 options remaining are euthanasia or abandonment, both of which  
24 are in direct opposition to the codes and standards of health  
25 care professionals; and

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1           WHEREAS, in the event of a catastrophic disaster, a health  
2 care professional may be faced with divided loyalties, torn  
3 between providing necessary care and services to their  
4 patients, and the known or unknown needs of their families; and

5           WHEREAS, in a disaster, health care professionals may be  
6 forced to choose between addressing the health and safety of  
7 their patients and their own personal health and safety; and

8           WHEREAS, health care professionals may find themselves in  
9 personal or professional jeopardy based on their actions or  
10 inactions in a disaster; and

11           WHEREAS, it is possible to imagine situations such as this  
12 being replicated in New Mexico due to catastrophic disasters;  
13 and

14           WHEREAS, health care professionals would benefit from  
15 guidance and direction developed in a time when no catastrophic  
16 disaster is before them;

17           NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF  
18 REPRESENTATIVES OF THE STATE OF NEW MEXICO that the New Mexico  
19 health policy commission be requested to create a task force to  
20 study reasonable limits on the duty of a health care  
21 professional to respond to disasters; and

22           BE IT FURTHER RESOLVED that the task force have  
23 representation from the university of New Mexico school of  
24 medicine, the university of New Mexico school of law, health  
25 professional licensing boards, at least two persons with

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1 education and experience in bioethics, the New Mexico hospital  
2 association, the department of health and the homeland security  
3 and emergency management department; and

4 BE IT FURTHER RESOLVED that the findings and  
5 recommendations of the task force be presented to the interim  
6 legislative health and human services committee by October 31,  
7 2009; and

8 BE IT FURTHER RESOLVED that a copy of this memorial be  
9 transmitted to the deputy director of the New Mexico health  
10 policy commission.

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