

1 HOUSE BILL 295

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

3 INTRODUCED BY

4 Paul C. Bandy

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9  
10 AN ACT

11 RELATING TO INSURANCE; ALLOWING EMPLOYEES OF ASSOCIATION  
12 MEMBERS TO BE ADDED TO THE ASSOCIATION'S GROUP HEALTH  
13 INSURANCE.

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 59A-23-3 NMSA 1978 (being Laws 1984,  
17 Chapter 127, Section 462, as amended) is amended to read:

18 "59A-23-3. GROUP HEALTH INSURANCE.--

19 A. Group health insurance is that form of health  
20 insurance covering groups of persons, with or without their  
21 dependents, and issued upon the following basis:

22 (1) under a policy issued to an employer,  
23 [~~who~~] that shall be deemed the policyholder, insuring at least  
24 one employee of [~~such~~] the employer for the benefit of persons  
25 other than the employer. The term "employees", as used in this

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1 section, includes the officers, managers and employees of the  
2 employer, the partners, if the employer is a partnership, the  
3 officers, managers and employees of subsidiary or affiliated  
4 corporations of a corporation employer, and the individual  
5 proprietors, partners and employees of individuals and firms  
6 the business of which is controlled by the insured employer  
7 through stock ownership, contract or otherwise. The term  
8 "employer", as used in this section, includes any municipal or  
9 governmental corporation, unit, agency or department thereof  
10 and the proper officers, as such, or any unincorporated  
11 municipality or department thereof, as well as private  
12 individuals, partnerships and corporations. A small employer  
13 shall also be subject to the Small Group Rate and Renewability  
14 Act. A "small employer" means any person, firm, corporation,  
15 partnership or association actively engaged in business who, on  
16 at least fifty percent of its working days during the preceding  
17 year, employed no more than fifty eligible employees. In  
18 determining the number of eligible employees, companies that  
19 are affiliated companies or that are eligible to file a  
20 combined tax return for purposes of state taxation shall be  
21 considered one employer;

22 (2) under a policy issued to an association,  
23 including a labor union and an agricultural association, which  
24 shall have a constitution and bylaws and which has been  
25 organized and is maintained in good faith for purposes other

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1 than that of obtaining insurance, insuring at least twenty-five  
2 members of the association for the benefit of persons other  
3 than the association or its officers or trustees. [~~as such~~] The  
4 policy issued to an association shall also insure an individual  
5 who is employed by a member of an association and whose job  
6 duties are substantially related to the purposes for which the  
7 association is organized; or

8 (3) under a policy issued to any other  
9 substantially similar group [~~which~~] that, in the discretion of  
10 the superintendent, may be subject to the issuance of a group  
11 sickness and accident policy or contract.

12 B. Each policy, as provided by this section, shall  
13 contain in substance the following provisions:

14 (1) a provision that the policy, the  
15 application of the policyholder, if such application or copy  
16 thereof is attached to such policy, and the individual  
17 applications, if any, submitted in connection with such policy  
18 by the employees, [~~or~~] members or individuals employed by a  
19 member, shall constitute the entire contract between the  
20 parties, and that all statements, in the absence of fraud, made  
21 by any applicant or applicants shall be deemed representations  
22 and not warranties, and that no such statement shall void the  
23 insurance or reduce benefits thereunder unless contained in a  
24 written application for such insurance;

25 (2) a provision that the insurer will furnish

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1 to the policyholder, for delivery to each employee, [Ø] member  
2 or individual employed by a member of the insured group, an  
3 individual certificate setting forth in summary form a  
4 statement of the essential features of the insurance coverage  
5 of such employee, [Ø] member or individual employed by a  
6 member and to whom benefits thereunder are payable. If  
7 dependents are included in the coverage, only one certificate  
8 need be issued for each family unit; and

9 (3) a provision that to the group originally  
10 insured may be added from time to time eligible new employees,  
11 [Ø] members, individuals employed by a member or dependents,  
12 as the case may be, in accordance with the terms of the policy.

13 C. For purposes of this section only, the directors  
14 of a corporation shall be deemed to be employees of the  
15 corporation."