

1 SENATE BILL 221

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Gerald Ortiz y Pino

5
6
7
8
9
10 AN ACT

11 RELATING TO HEALTH INSURANCE; ENACTING THE NEW MEXICO HEALTH
12 INSURANCE EXCHANGE ACT; CREATING THE NEW MEXICO HEALTH
13 INSURANCE EXCHANGE; PROVIDING FOR THE APPOINTMENT, POWERS AND
14 DUTIES OF A BOARD OF DIRECTORS FOR THE EXCHANGE; PROVIDING THE
15 SUPERINTENDENT OF INSURANCE WITH RULEMAKING POWERS RELATING TO
16 THE EXCHANGE; PROVIDING FOR POWERS AND DUTIES OF THE EXCHANGE;
17 PROVIDING FOR TRANSPARENCY OF EXCHANGE FUNDING AND OPERATIONS;
18 ENACTING A PROVISION OF THE NEW MEXICO HEALTH INSURANCE
19 ALLIANCE ACT TO PROVIDE FOR TERMINATION AND PORTABILITY OF
20 APPROVED HEALTH PLAN COVERAGE; ENACTING A TEMPORARY PROVISION
21 TO PROVIDE FOR TRANSFER OF NEW MEXICO HEALTH INSURANCE ALLIANCE
22 PERSONNEL, PERSONAL PROPERTY, CONTRACTS AND REFERENCES IN LAW
23 TO THE NEW MEXICO HEALTH INSURANCE EXCHANGE; PROVIDING FOR THE
24 DELAYED REPEAL OF THE NEW MEXICO HEALTH INSURANCE ALLIANCE ACT;
25 AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978;

.191301.5

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN
2 LAWS 2009.

3
4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

5 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
6 through 9 of this act may be cited as the "New Mexico Health
7 Insurance Exchange Act".

8 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
9 New Mexico Health Insurance Exchange Act:

10 A. "board" means the board of directors of the
11 exchange;

12 B. "carrier" means a person that is subject to
13 licensure by the superintendent or subject to the provisions of
14 the New Mexico Insurance Code and that provides one or more
15 health benefits or insurance plans in the state;

16 C. "dependent" means "dependent" as defined in
17 Section 152 of the federal Internal Revenue Code of 1986;

18 D. "employee" means an individual hired by another
19 individual or entity for a wage or fixed payment in exchange
20 for personal services and who does not provide the services as
21 part of an independent business;

22 E. "exchange" means the New Mexico health insurance
23 exchange;

24 F. "health care provider" means an individual who
25 is licensed, certified or otherwise authorized or permitted by

.191301.5

underscoring material = new
~~[bracketed material] = delete~~

1 law pursuant to Chapter 61 NMSA 1978 to provide health care in
2 the ordinary course of business or practice of a profession;

3 G. "health care services, finance or coverage
4 sector" means a business sector that includes carriers and
5 other health insurance issuers; health maintenance or managed
6 care organizations; nonprofit health plans; self-insured group
7 health plans; trade associations of carriers; producers;
8 persons licensed or otherwise authorized to provide health care
9 in the regular course of business; and health care facilities;

10 H. "member" means a person appointed to the board;

11 I. "Native American" means:

12 (1) an individual who is a member of any
13 federally recognized Indian nation, tribe or pueblo or who is
14 an Alaska Native; or

15 (2) an individual who has been deemed eligible
16 for services and programs provided to Native Americans by the
17 United States public health service or the bureau of Indian
18 affairs;

19 J. "navigator" means an entity that, in a manner
20 culturally and linguistically appropriate to the state's
21 diverse populations, conducts public education, distributes tax
22 credit and qualified health plan enrollment information,
23 facilitates enrollment in qualified health plans and public
24 health coverage programs or provides referrals to consumer
25 assistance or ombudsman services. "Navigator" does not mean a

.191301.5

1 carrier or a person that receives any consideration, directly
2 or indirectly, from any carrier in connection with the
3 enrollment of a qualified individual in a qualified health
4 plan;

5 K. "qualified employer" means a small employer that
6 elects to make its full-time employees, and, at the option of
7 the employer, some or all of its part-time employees, eligible
8 for one or more qualified health plans offered in the small
9 group market through the exchange; provided that the employer:

10 (1) has its principal place of business in the
11 state and elects to provide coverage through the exchange to
12 all of its eligible employees, wherever employed; or

13 (2) elects to provide coverage through the
14 exchange to all of its eligible employees who are principally
15 employed in the state;

16 L. "qualified health plan" means health insurance
17 coverage or a group health plan that the superintendent has
18 determined as meeting the requirements in federal law for
19 coverage to be offered through the exchange;

20 M. "qualified individual" means an individual who:

21 (1) seeks to enroll or who participates in a
22 qualified health plan offered through the exchange and who
23 meets one of the following residency requirements:

24 (a) the individual is a resident of the
25 state and is, and continues to be, legally domiciled and

underscoring material = new
~~[bracketed material] = delete~~

1 physically residing on a full-time basis in a place of
2 habitation in the state that remains the person's principal
3 residence and from which the person is absent only for a
4 temporary or transitory purpose;

5 (b) the individual is a full-time
6 student attending an educational institution outside of the
7 state but, prior to attending the educational institution, met
8 the requirements of Subparagraph (a) of this paragraph;

9 (c) the individual is a full-time
10 student attending an institution of higher education located in
11 the state;

12 (d) the individual, whether a resident
13 or not, is a dependent; or

14 (e) the individual, whether a resident
15 or not, is an employee of a qualified employer;

16 (2) is not incarcerated at the time of
17 enrollment, other than incarceration pending the disposition of
18 charges; and

19 (3) is a citizen or national of the
20 United States or an alien lawfully present in the United
21 States, or who is reasonably expected to be a citizen or
22 national of the United States or an alien lawfully present in
23 the United States during the entire period for which enrollment
24 in the exchange is sought;

25 N. "small employer" means a person that is actively

underscoring material = new
[bracketed material] = delete

1 engaged in business that employed an average of at least one
2 but not more than fifty full-time-equivalent employees on
3 business days during the preceding calendar year and that
4 employs at least one employee in the first day of the plan
5 year; provided that:

6 (1) the small employer elects to make all
7 full-time employees eligible for one or more qualified health
8 plans offered in the small group market through the exchange;

9 (2) persons that are affiliated persons or
10 that are eligible to file a combined tax return for purposes of
11 state income taxation shall be considered one small employer;

12 (3) in the case of an employer that was not in
13 existence throughout a preceding calendar year, the
14 determination of whether the employer is a small employer shall
15 be based on the average number of employees that the employer
16 is reasonably expected to employ on working days in the current
17 calendar year; and

18 (4) the person is not a self-insured entity;

19 O. "superintendent" means the superintendent of
20 insurance of the office of superintendent of insurance; and

21 P. "telemedicine" means the use of electronic
22 information, imaging and communication technologies, including
23 interactive audio, video and data communications as well as
24 store-and-forward technologies, to provide and support health
25 care delivery, diagnosis, consultation, treatment, transfer of

.191301.5

underscored material = new
[bracketed material] = delete

1 medical data and education.

2 SECTION 3. [NEW MATERIAL] NEW MEXICO HEALTH INSURANCE
3 EXCHANGE CREATED--BOARD CREATED.--

4 A. The "New Mexico health insurance exchange" is
5 created as a nonprofit public corporation to provide qualified
6 individuals and qualified employers with increased access to
7 health insurance in the state and shall be governed by a board
8 of directors constituted pursuant to the provisions of the New
9 Mexico Health Insurance Exchange Act.

10 B. The "board of directors of the New Mexico health
11 insurance exchange" is created. The board consists of eleven
12 voting members. One voting ex-officio member is the secretary
13 of human services or the secretary's designee. One nonvoting
14 ex-officio member is the superintendent or the superintendent's
15 designee.

16 C. Managerial and full-time employees of the
17 exchange and appointed directors, while serving on the board,
18 shall not have any affiliation with or any income derived from
19 current or active employment as, a contract with or
20 consultation for the health care services, finance or coverage
21 sectors.

22 D. Each member and employee of the exchange shall
23 have a fiduciary duty to the exchange.

24 E. The board shall be composed, as a whole, to
25 assure representation of the state's Native American

.191301.5

1 population, ethnic diversity, cultural diversity and geographic
2 diversity. Members shall have demonstrated knowledge or
3 experience in at least one of the following areas:

4 (1) purchasing coverage in the individual
5 market;

6 (2) purchasing coverage in the small employer
7 market;

8 (3) health care finance;

9 (4) health care economics;

10 (5) health care policy;

11 (6) the enrollment of underserved residents in
12 health care coverage; or

13 (7) administering private or public health
14 care insurance.

15 F. Selection of the ten appointed voting members
16 shall be as follows:

17 (1) the governor shall appoint three members
18 who shall be chosen from officers, general partners or
19 proprietors of qualified employers;

20 (2) the superintendent shall appoint three
21 members, each of whom shall be a resident of the state who is a
22 consumer in the state's individual health insurance market; and

23 (3) the president pro tempore of the senate,
24 the speaker of the house of representatives, the senate
25 minority floor leader and the house minority floor leader shall

.191301.5

underscoring material = new
~~[bracketed material] = delete~~

1 each appoint one member.

2 G. The appointed members shall have initial terms
3 chosen by lot as follows: five members shall serve four-year
4 terms and five members shall serve three-year terms.
5 Thereafter, members shall serve three-year terms.

6 H. A member shall serve until the member's
7 successor is appointed by the respective appointing authority.

8 I. The exchange, including the board, is a
9 government entity for purposes of the Tort Claims Act and shall
10 operate consistently with the provisions of the Governmental
11 Conduct Act, the Inspection of Public Records Act, the
12 Financial Disclosure Act and the Open Meetings Act and shall
13 not be subject to the Procurement Code or the Personnel Act.

14 J. A majority of members constitutes a quorum. The
15 board may allow members to attend meetings by telephone or
16 other electronic media. A decision by the board requires a
17 quorum and a majority of members in attendance voting in favor
18 of the decision.

19 K. Within sixty days of the effective date of the
20 New Mexico Health Insurance Exchange Act, the superintendent
21 shall convene the organizational meeting of the board, during
22 which the board shall elect a chair and vice chair from among
23 its members. Thereafter, every three years the board shall
24 elect in open meeting a chair and vice chair from among its
25 members. The chair and vice chair shall serve no more than two

.191301.5

underscored material = new
~~[bracketed material] = delete~~

1 consecutive three-year terms as chair and vice chair.

2 L. A vacancy on the board shall be filled by
3 appointment by the original appointing authority for the
4 remainder of the member's unexpired term.

5 M. A member may be removed from the board by a
6 majority vote of the members. The board shall set standards
7 for attendance and may remove a member for lack of attendance,
8 neglect of duty or malfeasance in office. A member shall not
9 be removed without proceedings consisting of at least one
10 ten-day notice of hearing and an opportunity to be heard.
11 Removal proceedings shall be before the board and in accordance
12 with procedures adopted by the board.

13 N. Appointed members may receive per diem and
14 mileage in accordance with the Per Diem and Mileage Act,
15 subject to the travel policy set by the board. Appointed
16 members shall receive no other compensation, perquisite or
17 allowance.

18 O. The board shall meet at the call of the chair
19 and no less often than once per calendar quarter. There shall
20 be at least seven days' notice given to members prior to any
21 meeting.

22 P. The board shall create, make appointments to and
23 duly consider recommendations of an advisory committee or
24 committees made up of stakeholders, including carriers, health
25 care consumers, health care providers, health care

.191301.5

underscoring material = new
[bracketed material] = delete

1 practitioners, brokers, qualified employer representatives and
2 advocates for low-income or underserved residents.

3 Q. The board shall create an advisory committee
4 made up of Native Americans, some of whom live on a reservation
5 and some of whom do not live on a reservation, to guide the
6 implementation of the Native-American-specific provisions of
7 the federal Patient Protection and Affordable Care Act and the
8 federal Indian Health Care Improvement Act.

9 SECTION 4. [NEW MATERIAL] BOARD OF DIRECTORS--

10 POWERS.--The board may:

11 A. seek and receive grant funding from federal,
12 state or local governments or private philanthropic
13 organizations to defray the costs of operating the exchange;

14 B. generate funding, including charging assessments
15 or fees, to support its operations in accordance with rules
16 that the superintendent has promulgated and the provisions of
17 the New Mexico Health Insurance Exchange Act;

18 C. create ad hoc advisory councils;

19 D. request assistance from other boards,
20 commissions, departments, agencies and organizations as
21 necessary to provide appropriate expertise to accomplish the
22 exchange's duties;

23 E. enter into contracts with persons or other
24 organizations as necessary or proper to carry out the
25 provisions and purposes of the New Mexico Health Insurance

.191301.5

underscored material = new
[bracketed material] = delete

1 Exchange Act, including the authority to contract or employ
2 staff for the performance of administrative, legal, actuarial,
3 accounting and other functions, provided that any contractor
4 shall be subject to the conflict-of-interest provisions set
5 forth in Subsection C of Section 3 of the New Mexico Health
6 Insurance Exchange Act;

7 F. enter into contracts with similar exchanges of
8 other states for the joint performance of common administrative
9 functions;

10 G. enter into information-sharing agreements with
11 federal and state agencies and other state exchanges to carry
12 out its responsibilities; provided that these agreements
13 include adequate protections of the confidentiality of the
14 information to be shared and comply with all state and federal
15 laws and regulations;

16 H. sue or be sued or otherwise take any necessary
17 or proper legal action in the execution of its duties and
18 powers;

19 I. appoint board committees, which may include
20 non-board members, to provide technical assistance in the
21 operation of the exchange and any other function within the
22 authority of the exchange; and

23 J. conduct periodic audits to assure the general
24 accuracy of the financial data submitted to the exchange.

25 SECTION 5. [NEW MATERIAL] PLAN OF OPERATION.--

.191301.5

underscoring material = new
~~[bracketed material] = delete~~

1 A. The board shall create a plan of operation
2 containing provisions to ensure the fair, reasonable and
3 equitable administration of the exchange.

4 B. The board shall provide for public notice and
5 hearing prior to approving the plan of operation.

6 C. The plan of operation shall:

7 (1) establish procedures to implement the
8 provisions of the New Mexico Health Insurance Exchange Act,
9 consistent with state law, approved waiver of federal law, the
10 federal Patient Protection and Affordable Care Act and other
11 federal law, including:

12 (a) determination of which qualified
13 health plans will be offered through the exchange;

14 (b) eligibility determination for the
15 exchange and related public programs;

16 (c) enrollment of qualified individuals
17 and qualified employers; and

18 (d) administration of assessments and
19 fees;

20 (2) establish procedures for handling and
21 accounting for the exchange's assets and money;

22 (3) establish regular times and meeting places
23 for meetings of the board;

24 (4) establish a program to publicize the
25 existence of the exchange, qualified health plans, the

.191301.5

underscored material = new
[bracketed material] = delete

1 eligibility requirements and procedures for enrollment in a
2 qualified health plan, medicaid or other public health coverage
3 program and to maintain public awareness of the exchange;

4 (5) establish consumer complaint and grievance
5 procedures for issues raised with the exchange;

6 (6) establish conflict-of-interest policies
7 and procedures;

8 (7) establish a consumer outreach and
9 assistance program, which shall include awarding grants to
10 entities that demonstrate that they meet the requirements to be
11 a navigator pursuant to state and federal law. The consumer
12 outreach and assistance program may also include directly
13 hiring staff or awarding grants to entities that are not
14 navigators; provided that these staff or entities shall comply
15 with all conflict of interest rules that apply to navigators
16 under state and federal law. A recipient of consumer outreach
17 assistance funding that facilitates enrollment in qualified
18 health plans shall also facilitate enrollment in medicaid, the
19 children's health insurance program and other public coverage
20 programs; and

21 (8) contain additional provisions necessary
22 and proper for the execution of the powers and duties of the
23 board.

24 SECTION 6. [NEW MATERIAL] BOARD DUTIES--REPORTING.--The
25 board shall:

.191301.5

underscored material = new
[bracketed material] = delete

- 1 A. by August 1, 2013, establish an application
- 2 process for the following:
- 3 (1) qualified health plan status;
- 4 (2) qualified individual status;
- 5 (3) qualified employer status;
- 6 (4) a premium assistance subsidy;
- 7 (5) a tax credit for purchase of a qualified
- 8 health plan;
- 9 (6) exemption from the federal requirement to
- 10 purchase health insurance; and
- 11 (7) state public coverage programs, including
- 12 medicaid;
- 13 B. establish at least one ambulatory service center
- 14 where persons may apply for any status, credit or exemption
- 15 listed in Subsection A of this subsection and, if eligible,
- 16 enroll in qualified health plans or public coverage programs;
- 17 C. between July 1, 2013 and January 1, 2015,
- 18 provide quarterly reports to the legislature, the governor and
- 19 the superintendent on the implementation of the exchange and
- 20 report annually and upon request thereafter;
- 21 D. comply with the following reporting
- 22 requirements:
- 23 (1) by January 1, 2015, present findings to
- 24 the governor, the superintendent, the legislative health and
- 25 human services committee and the legislative finance committee

.191301.5

1 about whether adverse selection is happening in the exchange
2 and make recommendations on how to minimize adverse
3 selection;

4 (2) by October 1, 2013, report to the
5 legislative health and human services committee and the
6 legislative finance committee its recommendations on:

7 (a) whether to combine the large group
8 market, the small group market or the individual market into a
9 single risk pool; and

10 (b) a transition plan for the exchange
11 and carriers to follow when changing the number of
12 full-time-equivalent employees to one hundred, whether
13 the change occurs prior to or on January 1, 2017;

14 (3) by October 1, 2013, report to the
15 legislative health and human services committee, the
16 legislative finance committee and the governor on how to ensure
17 that the plans offered through the exchange are of high quality
18 and value to New Mexicans, with a particular emphasis on
19 providing health care to low-income New Mexicans; and

20 (4) by January 1, 2015, report findings to the
21 governor, the superintendent, the legislative health and human
22 services committee and the legislative finance committee about
23 whether individuals with incomes below two hundred percent of
24 the federal poverty level are experiencing barriers to
25 enrollment in qualified health plans due to the affordability

.191301.5

underscoring material = new
~~[bracketed material] = delete~~

1 of qualified health plans, including whether these individuals
2 are disproportionately enrolling in bronze level coverage. The
3 board shall make recommendations about:

4 (a) whether the state would benefit from
5 the establishment of a basic health program pursuant to federal
6 law to cover low-income individuals who are not eligible for
7 medicaid; and

8 (b) other potential affordability
9 solutions for this population;

10 E. keep an accurate accounting of all of the
11 activities, receipts and expenditures of the exchange and
12 submit this information annually to the superintendent and as
13 required by federal law to the federal secretary of health and
14 human services;

15 F. beginning with the first year of operation in
16 which access to health insurance coverage is provided, obtain
17 an annual audit of the exchange's operations from an
18 independent certified public accountant;

19 G. cooperate with the medical assistance division
20 of the human services department to share information and
21 facilitate transitions in enrollment between the exchange and
22 medicaid, the state children's health insurance program or any
23 other state public health coverage program;

24 H. publish the administrative costs of the exchange
25 as required by state or federal law;

.191301.5

underscored material = new
[bracketed material] = delete

1 I. discharge those duties required to implement and
2 operate the exchange in accordance with the provisions of the
3 New Mexico Health Insurance Exchange Act consistent with state
4 and federal law;

5 J. consult with representatives of New Mexico
6 Indian nations, tribes and pueblos and develop and implement
7 policies that:

8 (1) promote effective communication and
9 collaboration between the exchange and Indian nations, tribes
10 and pueblos, including communicating and collaborating on those
11 nations', tribes' and pueblos' plans for creating or
12 participating in health insurance exchanges; and

13 (2) promote cultural competency in providing
14 effective services to Native Americans; and

15 K. designate a Native American liaison, who shall
16 assist the executive director of the exchange in developing and
17 ensuring implementation of communication and collaboration
18 between the exchange and Native Americans in the state. The
19 tribal liaison shall serve as a contact person between the
20 exchange and New Mexico Indian nations, tribes and pueblos and
21 shall ensure that training is provided to the staff of the
22 exchange.

23 SECTION 7. [NEW MATERIAL] RULES--DISPUTE RESOLUTION.--

24 A. The superintendent shall promulgate rules
25 necessary to implement and carry out the provisions of the New

.191301.5

underscoring material = new
[bracketed material] = delete

1 Mexico Health Insurance Exchange Act.

2 B. The superintendent shall certify qualified
3 health plans that conform to state and federal requirements for
4 qualified health plans.

5 C. The superintendent shall promulgate rules
6 relating to the operation of the exchange in accordance with
7 the provisions of the New Mexico Health Insurance Exchange Act
8 and for resolving disputes arising from the exchange's
9 operation. The rules shall relate to:

10 (1) the eligibility of an individual, employer
11 or carrier to participate in the exchange;

12 (2) receiving an exemption from any state or
13 federal individual requirement to retain minimum essential
14 coverage;

15 (3) the exchange's collection and transmission
16 to the applicable qualified health plans any applications for
17 enrollment and all premium payments or contributions made by or
18 on behalf of qualified individuals or qualified employers
19 participating in the exchange;

20 (4) any assessment to cover administrative
21 expenses, the operation of a navigator or consumer outreach and
22 assistance activities of the exchange; and

23 (5) ensuring that each qualified health plan
24 provides access to telemedicine services.

25 SECTION 8. [NEW MATERIAL] EXEMPTION.--The exchange is

.191301.5

underscoring material = new
[bracketed material] = delete

1 exempt from payment of all fees and all taxes levied by this
2 state or any of its political subdivisions.

3 SECTION 9. [NEW MATERIAL] FUNDING.--

4 A. To fund the planning, implementation and
5 operation of the exchange, the board shall contract with the
6 human services department or any other state agency that
7 receives federal funds allocated, appropriated or granted to
8 the state for purposes of funding the planning, implementation
9 or operation of a health insurance exchange.

10 B. The human services department or any other state
11 agency that receives federal funds allocated, appropriated or
12 granted to the state for purposes of funding the planning,
13 implementation or operation of a health insurance exchange
14 shall contract with the board to provide those funds to the
15 exchange in consideration for its planning, implementation or
16 operation.

17 SECTION 10. [NEW MATERIAL] COOPERATION WITH THE NEW
18 MEXICO HEALTH INSURANCE EXCHANGE.--The medical assistance
19 division of the human services department shall cooperate with
20 the exchange to share information and facilitate transitions in
21 enrollment between the exchange and medicaid, the state
22 children's health insurance program or any other state public
23 health coverage program.

24 SECTION 11. A new section of the New Mexico Insurance
25 Code is enacted to read:

.191301.5

underscored material = new
[bracketed material] = delete

1 "[NEW MATERIAL] INSURANCE DIVISION--COOPERATION WITH NEW
2 MEXICO HEALTH INSURANCE EXCHANGE.--The office of superintendent
3 of insurance shall cooperate with the New Mexico health
4 insurance exchange to share information and assist in the
5 implementation of the functions of the exchange."

6 SECTION 12. Section 41-4-3 NMSA 1978 (being Laws 1976,
7 Chapter 58, Section 3, as amended by Laws 2009, Chapter 8,
8 Section 2 and by Laws 2009, Chapter 129, Section 2 and also by
9 Laws 2009, Chapter 249, Section 2) is amended to read:

10 "41-4-3. DEFINITIONS.--As used in the Tort Claims Act:

11 A. "board" means the risk management advisory
12 board;

13 B. "governmental entity" means the state or any
14 local public body as defined in Subsections C and H of this
15 section;

16 C. "local public body" means all political
17 subdivisions of the state and their agencies, instrumentalities
18 and institutions and all water and natural gas associations
19 organized pursuant to Chapter 3, Article 28 NMSA 1978;

20 D. "law enforcement officer" means a full-time
21 salaried public employee of a governmental entity, or a
22 certified part-time salaried police officer employed by a
23 governmental entity, whose principal duties under law are to
24 hold in custody any person accused of a criminal offense, to
25 maintain public order or to make arrests for crimes, or members

.191301.5

underscoring material = new
~~[bracketed material] = delete~~

1 of the national guard when called to active duty by the
2 governor;

3 E. "maintenance" does not include:

4 (1) conduct involved in the issuance of a
5 permit, driver's license or other official authorization to use
6 the roads or highways of the state in a particular manner; or

7 (2) an activity or event relating to a public
8 building or public housing project that was not foreseeable;

9 F. "public employee" means an officer, employee or
10 servant of a governmental entity, excluding independent
11 contractors except for individuals defined in Paragraphs (7),
12 (8), (10), (14) and (17) of this subsection, or of a
13 corporation organized pursuant to the Educational Assistance
14 Act, the Small Business Investment Act or the Mortgage Finance
15 Authority Act or a licensed health care provider, who has no
16 medical liability insurance, providing voluntary services as
17 defined in Paragraph (16) of this subsection and including:

18 (1) elected or appointed officials;

19 (2) law enforcement officers;

20 (3) persons acting on behalf or in service of
21 a governmental entity in any official capacity, whether with or
22 without compensation;

23 (4) licensed foster parents providing care for
24 children in the custody of the human services department,
25 corrections department or department of health, but not

.191301.5

underscoring material = new
[bracketed material] = delete

1 including foster parents certified by a licensed child
2 placement agency;

3 (5) members of state or local selection panels
4 established pursuant to the Adult Community Corrections Act;

5 (6) members of state or local selection panels
6 established pursuant to the Juvenile Community Corrections Act;

7 (7) licensed medical, psychological or dental
8 arts practitioners providing services to the corrections
9 department pursuant to contract;

10 (8) members of the board of directors of the
11 New Mexico medical insurance pool;

12 (9) individuals who are members of medical
13 review boards, committees or panels established by the
14 educational retirement board or the retirement board of the
15 public employees retirement association;

16 (10) licensed medical, psychological or dental
17 arts practitioners providing services to the children, youth
18 and families department pursuant to contract;

19 (11) members of the board of directors of the
20 New Mexico educational assistance foundation;

21 (12) members of the board of directors of the
22 New Mexico student loan guarantee corporation;

23 (13) members of the New Mexico mortgage
24 finance authority;

25 (14) volunteers, employees and board members

.191301.5

underscored material = new
[bracketed material] = delete

1 of court-appointed special advocate programs;

2 (15) members of the board of directors of the
3 small business investment corporation;

4 (16) health care providers licensed in New
5 Mexico who render voluntary health care services without
6 compensation in accordance with rules promulgated by the
7 secretary of health. The rules shall include requirements for
8 the types of locations at which the services are rendered, the
9 allowed scope of practice and measures to ensure quality of
10 care; ~~and~~

11 (17) an individual while participating in the
12 state's adaptive driving program and only while using a
13 special-use state vehicle for evaluation and training purposes
14 in that program; and

15 (18) the staff and members of the board of
16 directors of the New Mexico health insurance exchange
17 established pursuant to the New Mexico Health Insurance
18 Exchange Act;

19 G. "scope of duty" means performing any duties that
20 a public employee is requested, required or authorized to
21 perform by the governmental entity, regardless of the time and
22 place of performance; and

23 H. "state" or "state agency" means the state of New
24 Mexico or any of its branches, agencies, departments, boards,
25 instrumentalities or institutions."

.191301.5

underscored material = new
[bracketed material] = delete

1 SECTION 13. A new section of the New Mexico Health
2 Insurance Alliance Act is enacted to read:

3 "[NEW MATERIAL] NEW MEXICO HEALTH INSURANCE ALLIANCE--
4 TERMINATION OF APPROVED HEALTH PLANS--REPORTING.--

5 A. The alliance shall not issue approved health
6 plan coverage after December 31, 2013.

7 B. By July 1, 2013, the board shall develop a plan
8 to provide portability of coverage for individuals and
9 employers covered by approved health plans offered by the
10 alliance to qualified health plans offered pursuant to the New
11 Mexico Health Insurance Exchange Act. The board shall prepare
12 a report to the second session of the fifty-first legislature
13 with recommendations for continued and expanded health coverage
14 of the state's residents."

15 SECTION 14. TEMPORARY PROVISION--NEW MEXICO HEALTH
16 INSURANCE ALLIANCE--NEW MEXICO HEALTH INSURANCE EXCHANGE--
17 TRANSFER OF PERSONNEL, FUNDS AND PERSONAL PROPERTY--REFERENCES
18 IN LAW--CONTRACTS.--

19 A. On June 15, 2013:

20 (1) all personnel, appropriations, money,
21 records, equipment, supplies and other personal property of the
22 New Mexico health insurance alliance shall transfer to the New
23 Mexico health insurance exchange;

24 (2) all contracts of the New Mexico health
25 insurance alliance shall be binding and effective on the New

underscored material = new
[bracketed material] = delete

1 Mexico health insurance exchange; and

2 (3) all references in law to the New Mexico
3 health insurance alliance shall be deemed to be references to
4 the New Mexico health insurance exchange.

5 B. As used in this section:

6 (1) "personal property" means property other
7 than real property; and

8 (2) "real property" means an estate or
9 interest in, over or under land and other things or interests,
10 including minerals, water, structures and fixtures that by
11 custom, usage or law pass with a transfer of land even if the
12 estate or interest is not described or mentioned in the
13 contract of sale or instrument of conveyance and, if
14 appropriate to the context, the land in which the estate or
15 interest is claimed.

16 SECTION 15. DELAYED REPEAL.--On January 1, 2015, Sections
17 59A-56-1 through 59A-56-25 NMSA 1978 (being Laws 1994, Chapter
18 75, Sections 1 through 25, as amended) are repealed.

19 SECTION 16. SEVERABILITY.--If any part or application of
20 this act is held invalid, the remainder or its application to
21 other situations or persons shall not be affected.