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SENATE MEMORIAL 94

**52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

INTRODUCED BY  
Mary Kay Papen

A MEMORIAL

REQUESTING THE OFFICE OF SUPERINTENDENT OF INSURANCE TO CONVENE  
A MEETING OF STAKEHOLDERS ON REIMBURSEMENT AND COST-SHARING  
PRACTICES OF STATE GROUP HEALTH PLANS AND HEALTH INSURERS WITH  
RESPECT TO COMPLEMENTARY AND ALTERNATIVE MEDICINE SERVICES.

WHEREAS, New Mexico has been among those states that,  
early on, recognized the value of oriental medicine,  
chiropractic, massage therapy and naprapathic services, which  
are referred to as "complementary and alternative" to  
conventional medicine; and

WHEREAS, New Mexico has licensed or otherwise authorized  
the practice of these complementary and alternative services by  
educated and trained health professionals; and

WHEREAS, New Mexico is a rural state with many areas  
designated as medically underserved and as health professional

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1 shortage areas; and

2 WHEREAS, it is in the best interests of New Mexicans to  
3 expand, rather than limit, access to the full range of  
4 practitioners licensed or otherwise authorized by the state to  
5 provide health care services; and

6 WHEREAS, the national center for complementary and  
7 integrative health of the national institutes of health defines  
8 "integrative medicine" as a combination of "mainstream medical  
9 therapies and complementary and alternative medicine therapies  
10 for which there is some high-quality scientific evidence of  
11 safety and effectiveness"; and

12 WHEREAS, over the last twenty-five years, the demand for  
13 integrative medicine has increased dramatically and created a  
14 national community of more than three hundred fifty thousand  
15 complementary and alternative service providers; and

16 WHEREAS, integrative medicine is becoming part of  
17 conventional medical programs in the nation's most respected  
18 and innovative health care systems, such as the Cleveland  
19 clinic, the Mayo clinic and the M.D. Anderson cancer center, in  
20 military and veterans health systems and as part of the  
21 curriculum at the nation's top medical schools; and

22 WHEREAS, according to the Cleveland clinic children's  
23 center for pediatric integrative medicine, integrative medicine  
24 "may help to reduce the severity or frequency of disease  
25 episodes, decrease stress related to chronic disease" and

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1 improve quality of life; and

2 WHEREAS, conditions that this children's center commonly  
3 treats with integrative medicine include anxiety, arthritis,  
4 asthma, brain injury, chronic pain, concussion, headache,  
5 mobility impairment, pulmonary issues, slow healing and vocal  
6 chord dysfunction; and

7 WHEREAS, according to the Cleveland clinic, integrative  
8 medicine "can reverse" the consequences of unhealthy  
9 lifestyles, prevent illness and reduce symptoms resulting in  
10 decreased pain; improved sleep; enhanced immune function and  
11 fewer infections; lowered blood pressure, cholesterol and  
12 glucose levels; fewer complications following surgery;  
13 improvements in posttraumatic stress disorder; and improved  
14 post-operative outcomes; and

15 WHEREAS, the university of New Mexico center for life was  
16 established in 2007 as part of an expansion of clinical  
17 services of the section of integrative medicine at the  
18 university of New Mexico health sciences center; and

19 WHEREAS, the center for life is "a healing oriented  
20 practice" that "makes use of all appropriate therapies, both  
21 conventional and complementary"; and

22 WHEREAS, the university of New Mexico cancer center, a  
23 designated national cancer institute, offers complementary and  
24 alternative medicine and integrative medicine among a wide  
25 range of programs to support its patients' total well-being;

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1 and

2 WHEREAS, despite the wider recognition and adoption of  
3 integrative medicine, group health plans and health insurers  
4 have discriminated against complementary and alternative  
5 service providers when it comes to reimbursement, compared to  
6 reimbursement of conventional medical providers; and

7 WHEREAS, insured patients who prefer nonsurgical and  
8 nonpharmaceutical approaches to address pain or illness, or to  
9 supplement conventional modes of treatment, are required to pay  
10 more out of pocket to access complementary and alternative  
11 services, either through higher co-payments or limits on the  
12 number of treatments in a policy year; and

13 WHEREAS, Section 2706 of the federal Patient Protection  
14 and Affordable Care Act provides that group health plans as  
15 well as insurers offering group or individual health insurance  
16 coverage shall not discriminate against licensed health care  
17 providers "with respect to participation in the [health] plan  
18 or coverage"; and

19 WHEREAS, according to the United States senate committee  
20 on appropriations, the goal of this provision is "to ensure  
21 that patients have the right to access covered services from  
22 the full range of providers licensed and certified in their  
23 [s]tate"; and

24 WHEREAS, while Section 2706 does not prevent a health  
25 insurer from "varying reimbursement rates based on quality or

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1 performance measures", the same senate committee noted that  
2 Section 2706 was intended to prevent discrimination against  
3 certain types of providers in reimbursement rates based on  
4 factors other than quality or performance, such as "market  
5 considerations"; and

6 WHEREAS, it does not appear that Section 2706 is working  
7 as intended for New Mexicans, including state employees and  
8 retirees; and

9 WHEREAS, it appears that health insurers and group health  
10 plans, including those administered by the risk management  
11 division of the general services department, are discriminating  
12 against complementary and alternative medicine providers in  
13 favor of conventional medicine and the use of pharmaceuticals;  
14 and

15 WHEREAS, New Mexico's prescription opioid epidemic should  
16 be reason alone for the state to ensure that group health plans  
17 and health insurers encourage and pay for nonpharmaceutical  
18 alternatives to treat chronic pain through equitable access to  
19 complementary and alternative medicine;

20 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE  
21 OF NEW MEXICO that the office of superintendent of insurance  
22 convene a meeting of stakeholders to discuss the following  
23 business policies or practices in effect at any time on or  
24 after January 1, 2014 for group health plans for state  
25 employees, local public bodies, public schools and institutions

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1 of higher education and for the state's ten-largest health  
2 insurers, based on the number of covered lives that are  
3 regulated by the office of superintendent of insurance:

4 A. reimbursement of complementary and alternative  
5 medicine services;

6 B. patient cost-sharing for complementary and  
7 alternative medicine services;

8 C. reimbursement of conventional medical providers  
9 who see patients for chronic pain; and

10 D. patient cost-sharing for visits to conventional  
11 medical providers for chronic pain; and

12 BE IT FURTHER RESOLVED that stakeholders be requested to  
13 provide input for these same group health plans and health  
14 insurers with respect to business policies or practices in  
15 effect at any time on or after January 1, 2014 on:

16 A. whether reimbursement and patient cost-sharing  
17 have contributed to or correlate with patterns of increased  
18 prescribing of opioids for diagnoses of chronic pain or have  
19 resulted in or correlate with a decreased use of complementary  
20 and alternative medicine for chronic pain;

21 B. the financial impact of reimbursement and  
22 patient cost-sharing on New Mexico's providers of complementary  
23 and alternative medicine;

24 C. the financial impact on patients who have sought  
25 access to complementary and alternative medicine services; and

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1 D. whether reimbursement and patient cost-sharing  
2 pose barriers to making integrative medicine more widely  
3 available to insured New Mexicans; and

4 BE IT FURTHER RESOLVED that stakeholders include, at a  
5 minimum, representatives of:

6 A. complementary and alternative medicine  
7 professions that are licensed or otherwise authorized to  
8 practice in New Mexico;

9 B. health care systems, providers or facilities  
10 that offer integrative medicine in New Mexico;

11 C. tribal health care providers;

12 D. the university of New Mexico center for life;

13 E. the university of New Mexico cancer center;

14 F. the ten-largest health insurers in the state;

15 G. the office of superintendent of insurance;

16 H. the New Mexico health insurance exchange;

17 I. the department of health;

18 J. the medical assistance division of the human  
19 services department;

20 K. the risk management division of the general  
21 services department;

22 L. the board of pharmacy;

23 M. patient and consumer advocates; and

24 N. such other parties as determined by the office  
25 of superintendent of insurance; and

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1 BE IT FURTHER RESOLVED that the office of superintendent  
2 of insurance report its findings and recommendations resulting  
3 from the stakeholder meeting to the interim legislative health  
4 and human services committee no later than October 1, 2016; and

5 BE IT FURTHER RESOLVED that copies of this memorial be  
6 transmitted to the office of superintendent of insurance, the  
7 risk management division of the general services department,  
8 the boards and commissions division of the regulation and  
9 licensing department, the naprapathic task force of the New  
10 Mexico medical board, the university of New Mexico center for  
11 life, the university of New Mexico cancer center, the  
12 department of health, the human services department and the  
13 Indian affairs department.