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AN ACT
RELATING TO INSURANCE; AMENDING, REPEALING AND ENACTING
SECTIONS OF THE NEW MEXICO INSURANCE CODE.

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

SECTION 1. A new Section 59A-1-8.2 NMSA 1978 is enacted
to read:

"59A-1-8.2. DELIVER OR DELIVERY--DEFINITION.--"Deliver"
or "delivery" means send to by:

- A. email and retain an email delivery confirmation;
- B. electronic transmission through a dedicated two-way communication portal and retain delivery confirmation;
- C. fax and retain a fax delivery confirmation;
- D. regular mail; or
- E. personal delivery."

SECTION 2. Section 59A-2-8 NMSA 1978 (being Laws 1984,
Chapter 127, Section 26, as amended) is amended to read:

"59A-2-8. GENERAL POWERS AND DUTIES OF
SUPERINTENDENT.--

- A. The superintendent shall:
 - (1) organize and manage the office of superintendent of insurance and direct and supervise all its activities;

1 (2) execute the duties imposed upon the
2 superintendent by the Insurance Code;

3 (3) enforce those provisions of the
4 Insurance Code that are administered by the superintendent;

5 (4) have the powers and authority expressly
6 conferred by or reasonably implied from the provisions of the
7 Insurance Code;

8 (5) conduct such examinations and
9 investigations of insurance matters, in addition to those
10 expressly authorized, as the superintendent may deem proper
11 upon reasonable and probable cause to determine whether a
12 person has violated a provision of the Insurance Code or to
13 secure information useful in the lawful enforcement or
14 administration of the provision;

15 (6) have the power to sue or be sued;

16 (7) have the power to make, enter into and
17 enforce all contracts, agreements and other instruments
18 necessary, convenient or desirable in the exercise of the
19 superintendent's powers and functions and for the purposes of
20 the Insurance Code;

21 (8) prepare an annual budget for the office
22 of superintendent of insurance;

23 (9) have the right to require performance
24 bonds of employees as the superintendent deems necessary
25 pursuant to the Surety Bond Act. The office of

1 superintendent of insurance shall pay the cost of required
2 bonds;

3 (10) comply with the provisions of the
4 Administrative Procedures Act;

5 (11) upon an order based upon the invocation
6 of a state of emergency under the All Hazard Emergency
7 Management Act or the Public Health Emergency Response Act by
8 the governor, take those actions necessary to ensure access
9 to insurance and the stability of insurance markets during
10 the emergency. Such actions may include issuing emergency
11 rules or orders to address any or all of the following
12 matters related to insurance policies issued in New Mexico:

13 (a) grace periods for payment of
14 insurance premiums and performance of other duties by
15 insureds;

16 (b) refund of premiums;

17 (c) waiver of cost sharing or
18 deductibles;

19 (d) temporary postponement of
20 cancellations and nonrenewals;

21 (e) reporting requirements for claims;
22 and

23 (f) suspension of compliance with a
24 statute, rule or contract, if strict compliance would
25 prevent, hinder or delay necessary action in response to the

1 emergency; and

2 (12) have such additional powers and duties
3 as may be provided by other laws of this state.

4 B. If a state of emergency under the All Hazard
5 Emergency Management Act or the Public Health Emergency
6 Response Act is invoked by the governor, and the
7 superintendent issues emergency rules or orders to address
8 matters related to insurance policies issued in New Mexico,
9 each emergency rule or order:

10 (1) shall specify, by line of insurance:

11 (a) the geographic area in which the
12 order applies; and

13 (b) the dates on which the order
14 becomes effective and terminates; and

15 (2) shall not:

16 (a) apply retroactively;
17 (b) apply outside the geographic area
18 designated in the governor's order; or

19 (c) extend beyond the end date of the
20 governor's order."

21 SECTION 3. Section 59A-4-15 NMSA 1978 (being Laws 1984,
22 Chapter 127, Section 59, as amended by Laws 2011, Chapter
23 127, Section 3 and by Laws 2011, Chapter 144, Section 1) is
24 amended to read:

25 "59A-4-15. HEARINGS--IN GENERAL.--

1 A. The superintendent may hold a hearing, without
2 request by others, for any purpose within the scope of the
3 Insurance Code.

4 B. The superintendent shall hold a hearing:

5 (1) if required by any other provision of
6 the Insurance Code; or

7 (2) upon written request for a hearing by a
8 person aggrieved by any act, threatened act or failure of the
9 superintendent to act or by any report, rule or order of the
10 superintendent, other than an order for the holding of a
11 hearing or order on hearing or pursuant to such an order on a
12 hearing of which the person had notice.

13 C. The request for a hearing shall briefly state
14 the respects in which the applicant is so aggrieved, the
15 relief to be sought and the grounds to be relied upon as
16 basis for relief. The request shall be received by the
17 superintendent no later than thirty days from the date of the
18 act, threatened act or failure of the superintendent to act
19 or the date of the superintendent's report, rule or order.

20 D. If the superintendent finds that the request is
21 made in good faith, that the applicant would be so aggrieved
22 if the stated grounds are established and that such grounds
23 otherwise justify the hearing, the superintendent shall
24 commence the hearing within thirty days after filing of the
25 request, unless postponed by mutual consent. No postponement

1 shall be later than ninety days after the filing of the
2 request.

3 E. Pending the hearing and decision, the
4 superintendent may suspend or postpone the effective date of
5 the action as to which the hearing is requested. If upon
6 request the superintendent refuses to grant the suspension or
7 postponement, the person requesting the hearing may apply no
8 later than twenty days from the superintendent's refusal to
9 the district court of Santa Fe county for a stay of the
10 superintendent's action or proposed action pending the
11 hearing and the superintendent's order.

12 F. Except as otherwise expressly provided, this
13 section does not apply to hearings relative to matters
14 arising under Chapter 59A, Article 17 NMSA 1978.

15 G. The superintendent may appoint a hearing
16 officer to preside over hearings. The hearing officer shall
17 provide the superintendent with a recommended decision on the
18 matter assigned to the hearing officer, including findings of
19 fact and conclusions of law."

20 SECTION 4. Section 59A-5-23 NMSA 1978 (being Laws 1984,
21 Chapter 127, Section 90) is amended to read:

22 "59A-5-23. CONTINUANCE, EXPIRATION, REINSTATEMENT OF
23 CERTIFICATE OF AUTHORITY.--

24 A. A certificate of authority shall continue in
25 force as long as the insurer is entitled thereto under the

1 Insurance Code, and until suspended or revoked by the
2 superintendent or terminated at the insurer's request,
3 subject, however, to continuance of the certificate by the
4 insurer each year by:

5 (1) payment on or before March 1 of the
6 continuation fee referred to in Section 59A-6-1 NMSA 1978;

7 (2) due filing by the insurer of its annual
8 statement for the next preceding calendar year as required by
9 Section 59A-5-29 NMSA 1978; and

10 (3) payment by the insurer when due of
11 premium taxes with respect to the preceding calendar year.

12 B. If not so continued by the insurer its
13 certificate of authority shall expire at midnight on the date
14 of failure of the insurer to continue it in force, unless
15 earlier revoked as provided in Sections 59A-5-24 through
16 59A-5-26 NMSA 1978.

17 C. Upon the insurer's request made within three
18 months after expiration, the superintendent may reinstate a
19 certificate of authority that the insurer inadvertently
20 permitted to expire, after the insurer has fully cured all
21 its failures that resulted in the expiration, and upon
22 payment by the insurer of the fee for reinstatement specified
23 in Section 59A-6-1 NMSA 1978. Otherwise the superintendent
24 shall grant the insurer another certificate of authority only
25 after filing an application therefor and meeting all other

1 requirements as for an original certificate of authority in
2 this state.

3 D. If an insurer allows a certificate of authority
4 issued by the superintendent to expire, the holder of the
5 expired certificate shall remain subject to the provisions of
6 the Insurance Code but is not authorized to transact any
7 insurance business. If the insurer reinstates the expired
8 certificate of authority within three months after
9 expiration, the reinstatement shall relate back to the date
10 of the expiration; provided that this shall not excuse any
11 violation of the Insurance Code that occurred during the
12 intervening period."

13 SECTION 5. Section 59A-5-32 NMSA 1978 (being Laws 1984,
14 Chapter 127, Section 99) is amended to read:

15 "59A-5-32. SERVING PROCESS--TIME TO PLEAD.--

16 A. Service of process against an insurer for whom
17 the superintendent is attorney shall be made by delivering by
18 email to the superintendent, or the superintendent's
19 designee, an electronic copy of the process together with the
20 fee specified in Section 59A-6-1 NMSA 1978, taxable as costs
21 in the action.

22 B. Upon such service the superintendent shall
23 deliver such process showing the date and time of service on
24 the superintendent, to the email or electronic portal address
25 of the person currently designated by the insurer to receive

1 such process as provided in Section 59A-5-31 NMSA 1978.

2 Service of process on the insurer shall be complete upon such
3 electronic delivery of the process.

4 C. Process served as provided in this section
5 shall for all purposes constitute valid and binding personal
6 service within this state upon the insurer. If summons is
7 served under this section, the time within which the insurer
8 is required to appear shall be extended an additional ten
9 days beyond that otherwise allowed by New Mexico rules of
10 civil procedure.

11 D. The superintendent shall keep record of the day
12 and time of service of legal process under this section.

13 E. If the electronic delivery requirements of this
14 section create a hardship for any person serving an insurer
15 pursuant to this subsection, that person shall deliver to the
16 superintendent or the superintendent's designee two copies of
17 the process together with the fee specified in Section
18 59A-6-1 NMSA 1978, taxable as costs in the action. Upon such
19 service, the superintendent shall deliver the process to the
20 insurer as provided in Subsection B of this section."

21 **SECTION 6.** Section 59A-12-2 NMSA 1978 (being Laws 2016,
22 Chapter 89, Section 26) is amended to read:

23 "59A-12-2. DEFINITIONS.--As used in Chapter 59A,
24 Article 12 NMSA 1978:

25 A. "affiliate" means a person that controls, is

1 controlled by or is under common control with the insurance
2 producer;

3 B. "business entity" means a corporation,
4 association, partnership, limited liability company, limited
5 liability partnership or other legal entity;

6 C. "home state" means the District of Columbia and
7 any state or territory of the United States in which an
8 insurance producer maintains the insurance producer's
9 principal place of residence or principal place of business
10 and is licensed to act as an insurance producer;

11 D. "insurance" means any of the lines of authority
12 in Chapter 59A, Article 7 NMSA 1978;

13 E. "insurance producer" means a person required to
14 be licensed under the laws of this state to sell, solicit or
15 negotiate insurance;

16 F. "insurer" means every person engaged as
17 principal and as indemnitor, surety or contractor in the
18 business of entering into contracts of insurance;

19 G. "license" means a document issued by the
20 superintendent authorizing a person to act as an insurance
21 producer for the lines of authority specified in the
22 document. The license itself does not create any authority,
23 actual, apparent or inherent, in the holder to represent or
24 commit an insurance carrier;

25 H. "limited line credit insurance" includes credit HJC/HB 235
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1 life, credit disability, credit property, credit
2 unemployment, involuntary unemployment, mortgage life,
3 mortgage guaranty, mortgage disability, guaranteed automobile
4 protection insurance and any other form of insurance offered
5 in connection with an extension of credit that is limited to
6 partially or wholly extinguishing that credit obligation;

7 I. "limited line credit insurance producer" means
8 a person who sells, solicits or negotiates one or more forms
9 of limited line credit insurance coverage to individuals
10 through a master, corporate, group or individual policy;

11 J. "limited lines insurance" means those lines of
12 insurance referred to in Section 59A-12-18 NMSA 1978 or any
13 other line of insurance that the superintendent deems
14 necessary to recognize for the purposes of complying with
15 Subsection E of Section 59A-11-24 NMSA 1978;

16 K. "limited lines producer" means a person
17 authorized by the superintendent to sell, solicit or
18 negotiate limited lines insurance;

19 L. "negotiate" means the act of conferring
20 directly with or offering advice directly to a purchaser or
21 prospective purchaser of a particular contract of insurance
22 concerning any of the substantive benefits, terms or
23 conditions of the contract; provided that the person engaged
24 in that act either sells insurance or obtains insurance from
25 insurers for purchasers;

1 M. "personal lines insurance producer" means a
2 general lines producer who is limited to transacting business
3 related to property and casualty insurance sold to
4 individuals and families for noncommercial purposes;

5 N. "reinstatement" means reestablishment of a
6 licensee's authority to transact insurance after a lapse of
7 that authority that restores the licensee's authority to the
8 same scope and condition that pertained to that authority
9 before the lapse;

10 O. "sell" means to exchange a contract of
11 insurance by any means, for money or its equivalent, on
12 behalf of an insurer;

13 P. "solicit" means attempting to sell insurance or
14 asking or urging a person to apply for a particular kind of
15 insurance from a particular insurer;

16 Q. "terminate" means to cancel the relationship
17 between an insurance producer and the insurer or to terminate
18 an insurance producer's authority to transact insurance;

19 R. "uniform application" means the current version
20 of the national association of insurance commissioners
21 uniform application for resident and nonresident insurance
22 producer licensing; and

23 S. "uniform business entity application" means the
24 current version of the national association of insurance
25 commissioners uniform business entity application for

1 resident and nonresident business entities."

2 SECTION 7. Section 59A-12-3 NMSA 1978 (being Laws 1984,
3 Chapter 127, Section 203, as amended) is amended to read:

4 "59A-12-3. "BROKER" DEFINED.--For the purpose of the
5 Insurance Code, a "broker" is a type of insurance producer
6 who, not being an agent of the insurer, as an independent
7 contractor and on behalf of the insured solicits, negotiates
8 or procures insurance or annuity contracts or renewal or
9 continuation thereof for insureds or prospective insureds
10 other than the broker. "Broker" does not include a surplus
11 line broker, as defined in Chapter 59A, Article 14 NMSA
12 1978."

13 SECTION 8. Section 59A-12-16 NMSA 1978 (being Laws
14 1984, Chapter 127, Section 217, as amended) is amended to
15 read:

16 "59A-12-16. EXAMINATION FOR LICENSE.--

17 A. A resident individual applying for an insurance
18 producer license shall, prior to issuance of license,
19 personally take and pass a written examination. The
20 examination shall test the knowledge of the individual
21 concerning the lines of authority for which application is
22 made, the duties and responsibilities of an insurance
23 producer and the insurance laws and rules of this state.
24 Examinations required by this section shall be developed and
25 conducted under rules prescribed by the superintendent.

1 B. The superintendent may contract with an outside
2 testing service for administering examinations and collecting
3 the nonrefundable fee set forth in Section 59A-6-1 NMSA 1978.

4 C. Each individual applying for an examination
5 shall remit a nonrefundable fee as prescribed by the
6 superintendent as set forth in Section 59A-6-1 NMSA 1978.

7 D. An individual who fails to appear for the
8 examination as scheduled or fails to pass the examination
9 shall reapply for an examination and remit all required fees
10 and forms before being rescheduled for another examination.

11 E. No examination shall be required:

12 (1) for renewal or continuance of an
13 existing license, except as provided in Subsection D of
14 Section 59A-11-10 NMSA 1978;

15 (2) of an applicant for limited license as
16 provided in Section 59A-12-18 NMSA 1978;

17 (3) of applicants with respect to life and
18 annuities or accident and health insurances who hold the
19 chartered life underwriter designation by the American
20 college of financial services;

21 (4) of applicants with respect to property
22 and casualty insurance who hold the designation of chartered
23 property and casualty underwriter designation by the American
24 institute for chartered property casualty underwriters;

25 (5) of applicants for temporary license as

1 provided for in Section 59A-12-19 NMSA 1978;

2 (6) of an applicant for a license covering
3 the same kind or kinds of insurance as to which licensed in
4 this state under a similar license within one year preceding
5 date of application for the new license, unless the previous
6 license was suspended, revoked or continuation thereof
7 refused by the superintendent;

8 (7) of an applicant for insurance producer
9 license, if the applicant took and passed a similar
10 examination in a state in which already licensed, subject to
11 Section 59A-5-33 NMSA 1978; or

12 (8) of an applicant for self-service storage
13 insurance producer license.

14 F. An individual who applies for an insurance
15 producer license in this state who was previously licensed
16 for the same lines of authority in another state shall not be
17 required to take an examination. This exemption is only
18 available if the person is currently licensed in that state
19 or if the application is received within ninety days of the
20 cancellation of the applicant's previous license and if the
21 prior state issues a certification that, at the time of
22 cancellation, the applicant was in good standing in that
23 state or the state's insurance producer database records,
24 maintained by the national association of insurance
25 commissioners, its affiliates or subsidiaries, indicate that

1 the insurance producer is or was licensed in good standing
2 for the line of authority requested.

3 G. A person licensed as an insurance producer in
4 another state who moves to this state shall apply within
5 ninety days of establishing legal residence to become a
6 resident insurance producer. No examination shall be
7 required of that person to obtain any line of authority
8 previously held in the prior state except where the
9 superintendent determines otherwise by rule."

10 SECTION 9. Section 59A-16-15 NMSA 1978 (being Laws
11 1984, Chapter 127, Section 281) is amended to read:

12 "59A-16-15. DISCRIMINATION--REBATES AND CERTAIN
13 INDUCEMENTS PROHIBITED--LIFE, HEALTH AND ANNUITY CONTRACTS.--
14 Except as otherwise expressly provided by law, no person
15 shall directly or indirectly, as an inducement to any
16 contract of life, annuity or health insurance:

17 A. offer, pay or accept any special favor or
18 advantage, any rebate of premiums or any valuable
19 consideration or promise whatsoever; or

20 B. promise any returns or profits, interest or
21 dividends not specified in the contract."

22 SECTION 10. Section 59A-16-16 NMSA 1978 (being Laws
23 1984, Chapter 127, Section 282) is amended to read:

24 "59A-16-16. EXCEPTIONS TO DISCRIMINATION, REBATE AND
25 INDUCEMENT PROHIBITION--LIFE, HEALTH AND ANNUITY CONTRACTS.--

1 A. Nothing in Section 59A-16-11 or 59A-16-15 NMSA
2 1978 shall be construed as including within the definition of
3 discrimination or rebates any of the following practices:

4 (1) in the case of any contract of life
5 insurance or life annuity, paying bonuses to policyholders or
6 otherwise abating their premiums in whole or in part out of
7 surplus accumulated from nonparticipating insurance, provided
8 that any such bonuses or abatement of premiums shall be fair
9 and equitable to policyholders and for the best interests of
10 the insurer and its policyholders;

11 (2) in the case of life insurance policies
12 issued on the industrial or debit plan, making allowance, in
13 an amount which fairly represents the saving in collection
14 expense, to policyholders who have continuously for a
15 specified period made premium payments directly to an office
16 of the insurer;

17 (3) readjusting the rate of premiums for a
18 group insurance policy based on the loss or expense
19 experience thereunder, at the end of the first or any
20 subsequent policy year of insurance thereunder, which may be
21 made retroactive only for such policy year;

22 (4) reducing the premium rate for policies
23 of large amounts, but not exceeding savings in issuance and
24 administration expenses reasonably attributable to such
25 policies as compared with policies of similar plan issued in

1 smaller amounts;

2 (5) reducing the premium rates for life or
3 health insurance policies or annuity contracts on salary
4 savings, payroll deduction, preauthorized check, bank draft
5 or similar plans in amounts reasonably commensurate with the
6 savings made by the use of such plans;

7 (6) extending credit for the payment of any
8 premium, and for which credit a reasonable rate of interest
9 is charged and collected; or

10 (7) offering or providing any value-added
11 product or service in conformance with Subsection G of
12 Section 59A-16-17 NMSA 1978.

13 B. Nothing in Chapter 59A, Article 16 NMSA 1978
14 shall be construed as including within the definition of
15 securities as inducements to purchase insurance the selling
16 or offering for sale, contemporaneously with life insurance,
17 of mutual fund shares or face amount certificates of
18 regulated investment companies under offerings registered
19 with the securities and exchange commission where such shares
20 or such face amount certificates or such insurance may be
21 purchased independently of and not contingent upon purchase
22 of the other, at the same price and upon similar terms and
23 conditions as where purchased independently."

24 SECTION 11. Section 59A-16-17 NMSA 1978 (being Laws
25 1984, Chapter 127, Section 283, as amended) is amended to

1 read:

2 "59A-16-17. DISCRIMINATION, REBATES AND CERTAIN
3 INDUCEMENTS PROHIBITED--OTHER COVERAGES.--

4 A. No person subject to the superintendent's
5 jurisdiction shall induce or attempt to induce another person
6 to enter into or continue a contract of insurance by directly
7 or indirectly offering to pay or accept any special favor or
8 advantage, any rebate of premiums or any valuable
9 consideration or promise whatsoever not specified in the
10 insurance contract, except to the extent provided for in an
11 applicable filing with the superintendent as provided by law
12 or as allowed by this section.

13 B. No title insurer or title insurance producer
14 shall:

15 (1) pay, directly or indirectly, to the insured
16 or any person acting as agent, representative, attorney or
17 employee of the owner, lessee, mortgagee, existing or
18 prospective, of the real property, or interest therein, that
19 is the subject matter of title insurance or as to which a
20 service is to be performed any commission or part of its fee
21 or charges or other consideration as inducement or
22 compensation for the placing of any order for a title
23 insurance policy or for performance of any escrow or other
24 service by the insurer with respect thereto;

25 (2) issue any policy or perform any service in

1 connection with which it or any insurance producer or other
2 person has paid or contemplates paying any commission, rebate
3 or inducement in violation of this section;

4 (3) give or receive, directly or indirectly,
5 any consideration or thing of value for the referral of title
6 insurance business or escrow or other service provided by a
7 title insurer or title insurance producer unless otherwise
8 permitted by regulation of the superintendent; or

9 (4) enter into a reinsurance agreement with an
10 affiliate of a real estate developer, real estate agency,
11 mortgage lender or referrer of title business without the
12 prior written approval of the superintendent.

13 C. No insured named in a policy or any employee of
14 such insured shall knowingly receive or accept, directly or
15 indirectly, any rebate, discount, abatement, credit or
16 reduction of premium, or any special favor or advantage or
17 valuable consideration or inducement, except as allowed by
18 this section.

19 D. No insurer or organization shall make or permit
20 any unfair discrimination between insureds or property having
21 like insuring or risk characteristics, in the premium or
22 rates charged for insurance or coverage, or in the dividends
23 or other benefits payable thereon or in any other of the
24 terms and conditions of the insurance or coverage.

25 E. Nothing in this section shall be construed as

1 prohibiting the payment of commissions or other compensation
2 to licensed insurance producers or other representatives; or
3 as prohibiting the extension of credit to an insured for the
4 payment of any premium and for which credit a reasonable rate
5 of interest is charged and collected; or as prohibiting any
6 insurer or insurance producer from allowing or returning to
7 its participating policyholders, members or subscribers,
8 dividends, savings or unabsorbed premium deposits. As to
9 title insurance, nothing in this section shall prohibit bulk
10 rates or special rates for customers of prescribed classes if
11 such bulk or special rates are provided for in the currently
12 effective schedule of fees and charges of the title insurer
13 as filed with the superintendent.

14 F. The provisions of this section shall not
15 prohibit a property or casualty insurer, or any employee or
16 representative thereof, or a property or casualty insurance
17 producer or other representative thereof from providing to
18 customers or prospective customers prizes and gifts,
19 including goods, gift cards, gift certificates, charitable
20 donations, raffle entries, meals, event tickets and other
21 items not exceeding one hundred dollars (\$100) in the
22 aggregate in value per customer or prospective customer in
23 any one calendar year.

24 G. A person subject to the superintendent's
25 jurisdiction may offer or provide value-added products or

1 services at no or reduced cost, even when such products or
2 services are not specified in the insurance contract, if the
3 product or service:

4 (1) relates to the insurance coverage;

5 (2) is offered at a cost that is reasonable in
6 comparison to the insured's or prospective insured's
7 premiums;

8 (3) has its availability based on documented
9 objective evidence and offered in a manner that is not
10 unfairly discriminatory; and

11 (4) is primarily designed to:

12 (a) provide loss mitigation or loss
13 control;

14 (b) reduce claim costs or claim settlement
15 costs;

16 (c) monitor or assess risk, identify
17 sources of risk or develop strategies for eliminating or
18 reducing risk;

19 (d) enhance health;

20 (e) enhance financial wellness through
21 items such as education or financial planning services;

22 (f) provide post-loss services;

23 (g) incentivize behavioral changes to
24 improve the health or reduce the risk of death or disability
25 of an insured or prospective insured;

1 (h) assist in the administration of
2 employee or retiree benefit insurance coverage; or

3 (i) provide education about liability
4 risks or risk of loss to persons or property.

5 H. Prior to offering or providing a value-added
6 product or service, a person shall notify the superintendent
7 of the person's intent to offer or provide a value-added
8 product or service."

9 SECTION 12. Section 59A-16-21 NMSA 1978 (being Laws
10 1984, Chapter 127, Section 287, as amended by Laws 2017,
11 Chapter 15, Section 1 and by Laws 2017, Chapter 130, Section
12 12) is amended to read:

13 "59A-16-21. PAYMENT OF CLAIM BY CHECK, DRAFT OR
14 ELECTRONIC TRANSFER--FAILURE TO PAY--INTEREST.--

15 A. An insurer shall pay promptly claims arising
16 under its policies with checks or drafts, or, if a claimant
17 requests, may pay by electronic transfer of funds. Without
18 amending other statutes dealing with checks, drafts or
19 electronic transfer of funds, a resident of New Mexico is
20 granted a cause of action for ten percent of the amount of
21 any check, draft or electronic transfer of funds that is not
22 paid or lawfully rejected within ten days of forwarding by a
23 New Mexico financial institution, but in no case to be less
24 than five hundred dollars (\$500) plus costs of suit and
25 attorney fees. The insurer shall not be required to pay such

1 civil damages for delay if it proves that the delay in
2 processing and payment was caused by a financial institution
3 or postal or delivery service and the check, draft or
4 electronic transfer of funds was paid or lawfully rejected
5 within forty-eight hours of actual receipt of the draft,
6 check or electronic transfer of funds by the person on whom
7 drawn.

8 B. Notwithstanding any provision of the Insurance
9 Code, any insurer issuing any policy, certificate or contract
10 of insurance, surety, guaranty or indemnity of any kind or
11 nature that fails for a period of forty-five days, after
12 required proof of loss has been furnished, to pay to the
13 person entitled the amount justly due shall be liable for the
14 amount due and unpaid with interest on that amount at the
15 rate of one and one-half times the prime lending rate for New
16 Mexico banks during the period the claim is unpaid. Interest
17 shall accrue, and the interest rate shall be determined, as
18 of the forty-sixth day after the proof of loss was furnished.

19 C. Subsection B of this section shall not apply to
20 any claims in arbitration or litigation."

21 SECTION 13. Section 59A-18-1 NMSA 1978 (being Laws 1984,
22 Chapter 127, Section 331, as amended) is amended to read:

23 "59A-18-1. SCOPE OF ARTICLE.--Chapter 59A, Article 18
24 NMSA 1978 applies as to all insurance policies and annuity
25 contracts of authorized insurers covering individuals

1 resident, or risks located, or insurance protection to be
2 rendered in this state, other than:

3 A. reinsurance;

4 B. policies or contracts not issued for delivery in
5 this state nor delivered in this state, except for contracts
6 for or endorsements of workers' compensation insurance when
7 the workers' compensation risk insured arises from the
8 employment of a worker performing work for an employer in New
9 Mexico and that employer is not domiciled in New Mexico;

10 C. wet marine and transportation insurance; or

11 D. surplus lines insurance contracts, unless such
12 contracts are specifically included by rule."

13 SECTION 14. Section 59A-18-22 NMSA 1978 (being Laws
14 1984, Chapter 127, Section 351) is amended to read:

15 "59A-18-22. BINDERS.--

16 A. While acting within the scope of authority
17 granted by the insurer, binders or other contracts for
18 temporary insurance may be made by a producer orally or in
19 writing, and shall be deemed to include all the usual terms
20 of the policy as to which the binder was given together with
21 such applicable endorsements as are designated in the binder,
22 except as superseded by the clear and express terms of the
23 binder.

24 B. No binder shall be valid beyond the issuance of
25 the policy as to which given, or beyond ninety days for

1 written binders, fifteen days for oral, from its effective
2 date, whichever period is the shorter.

3 C. If the policy has not been issued, a binder may
4 be extended or renewed beyond such ninety or fifteen days
5 with the written approval of the insurer.

6 D. This section shall not apply as to life or
7 health insurances; and binders under the standard fire policy
8 are governed by Section 492 of the Insurance Code and not by
9 this section."

10 SECTION 15. Section 59A-18-29 NMSA 1978 (being Laws
11 1984, Chapter 127, Section 358) is amended to read:

12 "59A-18-29. CANCELLATION OF CERTAIN POLICIES.--

13 A. An insurer or agent may at any time cancel a
14 policy for nonpayment of premium when due, whether the
15 premium is payable directly to the insurer or agent or
16 indirectly under any premium financing plan or extension of
17 credit. The insurer or agent shall give the named insured
18 written notice of the cancellation not less than ten days
19 prior to the effective date of the cancellation.

20 B. An insurer may cancel its policy without cause
21 at any time within sixty days following original issuance and
22 effective date of the policy. The insurer shall give the
23 named insured written notice of the cancellation not less
24 than ten days prior to the effective date of the
25 cancellation, which effective date shall fall within the

1 sixty-day period.

2 C. Subject to Subsection A of this section, after
3 expiration of the sixty-day period referred to in Subsection
4 B of this section, an insurer or agent shall not cancel
5 except for reasonable cause such policies and for such
6 causes, and with advance notice of cancellation for such
7 period of time, as may from time to time be provided by rules
8 and regulations of the superintendent. Such rules and
9 regulations may also require that statement of the reasons
10 for cancellation be contained in the notice of cancellation
11 given to specified persons.

12 D. Notice of cancellation shall be given using any
13 communication method authorized by the named insured, or by
14 personal delivery to the named insured or by mailing the
15 notice postage-paid addressed to the named insured at the
16 address last of record with the insurer. Notice so mailed
17 shall be deemed given when deposited in a mail depository of
18 the United States post office.

19 E. There shall be no liability on the part of and
20 no cause of action shall arise against an insurer or other
21 person for furnishing information as to reasons for
22 cancellation or for a statement made or information given
23 pursuant to this section.

24 F. This section shall not apply as to life
25 insurance or annuity contracts, health insurance contracts,

1 title insurance, inland marine insurance contracts, or to an
2 insurance policy that by its terms is not cancellable during
3 the term of the policy at the option of the insurer."

4 SECTION 16. Section 59A-22-2 NMSA 1978 (being Laws 1984,
5 Chapter 127, Section 423) is amended to read:

6 "59A-22-2. FORM AND CONTENT OF POLICY.--No policy of
7 individual health insurance shall be delivered or issued for
8 delivery in this state unless:

9 A. the entire money and other considerations
10 therefor are expressed therein;

11 B. the time at which insurance takes effect and
12 terminates is expressed therein;

13 C. it purports to insure only one person, except as
14 provided in Chapter 59A, Article 23 NMSA 1978, and except
15 that a policy or contract may be issued upon application of
16 the head of a family, who shall be deemed the policyholder,
17 covering members of any one family, including husband, wife,
18 dependent children or any children under the age of twenty-
19 six and other dependents living with the family;

20 D. every printed portion of the text matter and of
21 any endorsements or attached papers shall be printed in
22 uniform type of which the face shall be not less than ten
23 point (the "text" shall include all printed matter except the
24 name and address of the insurer, name and title of the
25 policy, captions, subcaptions and form numbers), but

1 notwithstanding any provision of this law, the superintendent
2 shall not disapprove any such policy on the ground that every
3 printed portion of its text matter or of any endorsement or
4 attached paper is not printed in uniform type if it shall be
5 shown that the type used is required to conform to the laws
6 of another state in which the insurer is authorized;

7 E. the exceptions and reductions of indemnity are
8 adequately captioned and clearly set forth in the policy or
9 contract;

10 F. each separate form, including riders and
11 endorsements, shall be identified by a form number and
12 consecutive page numbers in the lower left-hand corner of
13 each page; and

14 G. if any policy is issued by an insurer domiciled
15 in this state for delivery to a person residing in another
16 state, and if the official having responsibility for the
17 administration of insurance laws of such other state shall
18 have advised the superintendent that any such policy is not
19 subject to approval or disapproval by such official, the
20 superintendent may by ruling require that such policy meet
21 the standards set forth in Sections 59A-22-3 through 59A-22-
22 25 NMSA 1978."

23 **SECTION 17.** Section 59A-22-30.1 NMSA 1978 (being Laws
24 2005, Chapter 41, Section 1) is amended to read:

25 "59A-22-30.1. MAXIMUM AGE OF DEPENDENT.--An individual

1 or group health policy or certificate of insurance delivered,
2 issued for delivery or renewed in New Mexico that provides
3 coverage for an insured's dependent shall not terminate
4 coverage of an unmarried dependent by reason of the
5 dependent's age before the dependent's twenty-sixth birthday,
6 regardless of whether the dependent is enrolled in an
7 educational institution."

8 SECTION 18. Section 59A-22-33 NMSA 1978 (being Laws
9 1984, Chapter 127, Section 455) is amended to read:

10 "59A-22-33. CHILDREN WITH DISABILITIES--COVERAGE
11 CONTINUED.--An individual or group hospital or medical
12 expense insurance policy delivered or issued for delivery in
13 this state that provides that coverage of a dependent child
14 of an insured, or of an employee or other member of the
15 covered group, shall terminate upon attainment of the
16 limiting age for dependent children specified in the policy
17 shall also provide, in substance, that attainment of the
18 limiting age shall not operate to terminate the coverage of a
19 child while the child is, and continues to be both incapable
20 of self-sustaining employment, by reason of intellectual or
21 developmental disability or physical disability, and chiefly
22 dependent upon the policyholder for support and maintenance.
23 However, proof of the incapacity and dependency of the child
24 must be furnished to the insurer by the insured employee or
25 member within thirty-one days of the child's attainment of

1 the limiting age and subsequently, as may be required by the
2 insurer, but not more frequently than annually after the two-
3 year period following the child's attainment of the limiting
4 age."

5 SECTION 19. Section 59A-22-40.1 NMSA 1978 (being Laws
6 2007, Chapter 278, Section 1) is amended to read:

7 "59A-22-40.1. COVERAGE FOR THE HUMAN PAPILOMAVIRUS
8 VACCINE.--

9 A. An individual or group health insurance policy,
10 health care plan or certificate of health insurance that is
11 delivered, issued for delivery or renewed in this state shall
12 provide coverage for the human papillomavirus vaccine in
13 accordance with the current standards of the federal centers
14 for disease control and prevention.

15 B. Coverage for the human papillomavirus vaccine
16 may be subject to deductibles and coinsurance consistent with
17 those imposed on other benefits under the same policy, plan
18 or certificate.

19 C. The provisions of this section shall not apply
20 to short-term travel, accident-only or limited or specified
21 disease policies.

22 D. For the purposes of this section, "human
23 papillomavirus vaccine" means a vaccine approved by the
24 federal food and drug administration used for the prevention
25 of human papillomavirus infection and cervical precancers."

1 SECTION 20. Section 59A-22-41.1 NMSA 1978 (being Laws
2 2003, Chapter 192, Section 1) is amended to read:

3 "59A-22-41.1. COVERAGE FOR MEDICAL DIETS FOR GENETIC
4 INBORN ERRORS OF METABOLISM.--

5 A. As of July 1, 2003, each individual and group
6 health insurance policy, health care plan, certificate of
7 health insurance and managed health care plan delivered,
8 issued for delivery, renewed, extended or modified in this
9 state shall provide coverage for the treatment of genetic
10 inborn errors of metabolism that involve amino acid,
11 carbohydrate and fat metabolism and for which medically
12 standard methods of diagnosis, treatment and monitoring
13 exist.

14 B. Coverage shall include expenses of diagnosing,
15 monitoring and controlling disorders by nutritional and
16 medical assessment, including clinical services, biochemical
17 analysis, medical supplies, prescription drugs, corrective
18 lenses for conditions related to the genetic inborn error of
19 metabolism, nutritional management and special medical foods
20 used in treatment to compensate for the metabolic abnormality
21 and to maintain adequate nutritional status.

22 C. Services required to be covered pursuant to this
23 section are subject to the terms and conditions of the
24 applicable individual or group policy or plan that
25 establishes durational limits, dollar limits, deductibles and

1 co-payments as long as the terms are not less favorable than
2 for physical illness generally.

3 D. As used in this section:

4 (1) "genetic inborn error of metabolism" means
5 a rare, inherited disorder that:

6 (a) is present at birth;

7 (b) if untreated, results in intellectual
8 or developmental disability or death; and

9 (c) causes the necessity for consumption
10 of special medical foods;

11 (2) "special medical foods" means nutritional
12 substances in any form that are:

13 (a) formulated to be consumed or
14 administered internally under the supervision of a physician;

15 (b) specifically processed or formulated
16 to be distinct in one or more nutrients present in natural
17 food;

18 (c) intended for the medical and
19 nutritional management of patients with limited capacity to
20 metabolize ordinary foodstuffs or certain nutrients contained
21 in ordinary foodstuffs or who have other specific nutrient
22 requirements as established by medical evaluation; and

23 (d) essential to optimize growth, health
24 and metabolic homeostasis; and

25 (3) "treatment" means medical services provided

1 by licensed health care professionals, including physicians,
2 dieticians and nutritionists, with specific training in
3 managing patients diagnosed with genetic inborn errors of
4 metabolism."

5 SECTION 21. Section 59A-22-50 NMSA 1978 (being Laws
6 2010, Chapter 94, Section 1, as amended) is amended to read:

7 "59A-22-50. HEALTH INSURERS--DIRECT SERVICES.--

8 A. A health insurer shall reimburse direct services
9 as follows:

10 (1) for small groups, at no less than eighty
11 percent of aggregate premiums for all such products; and

12 (2) for large groups, at no less than
13 eighty-five percent of aggregate premiums for all such
14 products.

15 B. Reimbursement for direct services shall be
16 determined based on services provided over the preceding
17 three calendar years, but not earlier than calendar year
18 2010, as determined by reports filed with the office of
19 superintendent of insurance. Reimbursement calculations
20 shall include short-term plans, but exclude all other
21 excepted benefits plans governed by the provisions of Chapter
22 59A, Article 23G NMSA 1978.

23 C. For individually underwritten health care
24 policies, plans or contracts, the superintendent shall
25 establish, after notice and informal hearing, the level of

1 reimbursement for direct services, as determined by the
2 reports filed with the office of superintendent of insurance,
3 as a percent of premiums. Additional informal hearings may
4 be held at the superintendent's discretion. In establishing
5 the level of reimbursement for direct services, the
6 superintendent shall consider the costs associated with the
7 individual marketing and medical underwriting of these
8 policies, plans or contracts at a level not less than
9 seventy-five percent of premiums. A health insurer writing
10 these policies shall make reimbursement for direct services
11 at a level not less than that level established by the
12 superintendent pursuant to this subsection over the three
13 calendar years preceding the date upon which that rate is
14 established, but not earlier than calendar year 2010.

15 Nothing in this subsection shall be construed to preclude a
16 purchaser of one of these policies, plans or contracts from
17 negotiating an agreement with a health insurer that requires
18 a higher amount of premiums paid to be used for reimbursement
19 for direct services.

20 D. An insurer that fails to comply with the
21 reimbursement requirements pursuant to this section shall
22 issue a dividend or credit against future premiums to all
23 policyholders in an amount sufficient to ensure that the
24 benefits paid in the preceding three calendar years plus the
25 amount of the dividends or credits are equal to the required

1 direct services reimbursement level pursuant to Subsection A
2 of this section for group health coverage and blanket health
3 coverage or the required direct services reimbursement level
4 pursuant to Subsection B of this section for individually
5 underwritten health policies, contracts or plans for the
6 preceding three calendar years. If the insurer fails to
7 issue the dividend or credit in accordance with the
8 requirements of this section, the superintendent shall
9 enforce these requirements and may pursue any other penalties
10 as provided by law, including general penalties pursuant to
11 Section 59A-1-18 NMSA 1978.

12 E. After notice and hearing, the superintendent may
13 adopt and promulgate reasonable rules necessary and proper to
14 carry out the provisions of this section.

15 F. For the purposes of this section:

16 (1) "direct services" means services rendered
17 to an individual by a health insurer or a health care
18 practitioner, facility or other provider, including case
19 management, disease management, health education and
20 promotion, preventive services, quality incentive payments to
21 providers and any portion of an assessment that covers
22 services rather than administration and for which an insurer
23 does not receive a tax credit pursuant to the Medical
24 Insurance Pool Act; provided, however, that "direct services"
25 does not include care coordination, utilization review or

1 management or any other activity designed to manage
2 utilization or services;

3 (2) "health insurer" means a person duly
4 authorized to transact the business of health insurance in
5 the state pursuant to the Insurance Code, including a person
6 that issues a short-term plan and a person that only issues
7 an excepted benefit policy intended to supplement major
8 medical coverage, including medicare supplement, vision,
9 dental, disease-specific, accident-only or hospital
10 indemnity-only insurance policies, or that only issues
11 policies for long-term care or disability income;

12 (3) "premium" means all income received from
13 individuals and private and public payers or sources for the
14 procurement of health coverage, including capitated payments,
15 self-funded administrative fees, self-funded claim
16 reimbursements, recoveries from third parties or other
17 insurers and interests less any tax paid pursuant to the
18 Insurance Premium Tax Act and fees associated with
19 participating in a health insurance exchange that serves as a
20 clearinghouse for insurance; and

21 (4) "short-term plan" means a nonrenewable
22 health benefits plan covering a resident of the state,
23 regardless of where the plan is delivered, that:

24 (a) has a maximum specified duration of
25 not more than three months after the effective date of the

1 plan;

2 (b) is issued only to individuals who have
3 not been enrolled in a health benefits plan that provides the
4 same or similar nonrenewable coverage from any health
5 insurance carrier within the three months preceding
6 enrollment in the short-term plan; and

7 (c) is not an excepted benefit or
8 combination of excepted benefits."

9 SECTION 22. Section 59A-22A-3 NMSA 1978 (being Laws
10 1993, Chapter 320, Section 61) is amended to read:

11 "59A-22A-3. DEFINITIONS.--As used in the Preferred
12 Provider Arrangements Law:

13 A. "covered person" means any person on whose
14 behalf the health care insurer is obligated to pay for or to
15 provide health benefit services;

16 B. "covered services" means health care services
17 which the health care insurer is obligated to pay for or to
18 provide under a health benefit plan;

19 C. "emergency care" means health care procedures,
20 treatments or services delivered to a covered person after
21 the sudden onset of what reasonably appears to be a medical
22 condition that manifests itself by symptoms of sufficient
23 severity, including severe pain, that the absence of
24 immediate medical attention could be reasonably expected by a
25 reasonable layperson to result in jeopardy to a person's

1 health, serious impairment of bodily functions, serious
2 dysfunction of a bodily organ or part or disfigurement to a
3 person;

4 D. "health benefit plan" means the health insurance
5 policy or subscriber agreement between the covered person or
6 the policyholder and the health care insurer that defines the
7 covered services and benefit levels available;

8 E. "health care insurer" means any person who
9 provides health insurance in this state. For the purposes of
10 the Small Group Rate and Renewability Act, "carrier" or
11 "insurer" includes a licensed insurance company, a licensed
12 fraternal benefit society, a prepaid hospital or medical
13 service plan, a health maintenance organization, a nonprofit
14 health care organization, a multiple employer welfare
15 arrangement or any other person providing a plan of health
16 insurance subject to state insurance regulation;

17 F. "health care provider" means providers of health
18 care services licensed as required in this state;

19 G. "health care services" means services rendered
20 or products sold by a health care provider within the scope
21 of the provider's license. The term includes hospital,
22 medical, surgical, dental, vision and pharmaceutical services
23 or products;

24 H. "preferred provider" means a health care
25 provider or group of providers who have contracted with a

1 health care insurer to provide specified covered services to
2 a covered person; and

3 I. "preferred provider arrangement" means a
4 contract between or on behalf of the health care insurer and
5 a preferred provider that complies with all the requirements
6 of the Preferred Provider Arrangements Law."

7 **SECTION 23.** Section 59A-23-4 NMSA 1978 (being Laws 1984,
8 Chapter 127, Section 463, as amended) is amended to read:

9 "59A-23-4. OTHER PROVISIONS APPLICABLE.--

10 A. A blanket or group health insurance policy or
11 contract shall not contain a provision relative to notice or
12 proof of loss or the time for paying benefits or the time
13 within which suit may be brought upon the policy that in the
14 superintendent's opinion is less favorable to the insured
15 than would be permitted in the required or optional
16 provisions for individual health insurance policies as set
17 forth in Chapter 59A, Article 22 NMSA 1978.

18 B. The following provisions of Chapter 59A, Article
19 22 NMSA 1978 shall also apply as to Chapter 59A, Article 23
20 NMSA 1978 and blanket and group health insurance contracts:

21 (1) Section 59A-22-1 NMSA 1978, except
22 Subsection C of that section; and

23 (2) Section 59A-22-32 NMSA 1978.

24 C. The following provisions of Chapter 59A, Article
25 22 NMSA 1978 shall also apply as to group health insurance

1 contracts:

- 2 (1) Section 59A-22-2 NMSA 1978;
- 3 (2) Section 59A-22-3 NMSA 1978;
- 4 (3) Section 59A-22-4 NMSA 1978;
- 5 (4) Section 59A-22-5 NMSA 1978;
- 6 (5) Section 59A-22-6 NMSA 1978;
- 7 (6) Section 59A-22-7 NMSA 1978;
- 8 (7) Section 59A-22-8 NMSA 1978;
- 9 (8) Section 59A-22-9 NMSA 1978;
- 10 (9) Section 59A-22-10 NMSA 1978;
- 11 (10) Section 59A-22-11 NMSA 1978;
- 12 (11) Section 59A-22-12 NMSA 1978;
- 13 (12) Section 59A-22-13 NMSA 1978;
- 14 (13) Section 59A-22-14 NMSA 1978;
- 15 (14) Section 59A-22-25 NMSA 1978;
- 16 (15) Section 59A-22-28 NMSA 1978;
- 17 (16) Section 59A-22-29 NMSA 1978;
- 18 (17) Section 59A-22-32 NMSA 1978;
- 19 (18) Section 59A-22-32.1 NMSA 1978;
- 20 (19) Section 59A-22-33 NMSA 1978;
- 21 (20) Section 59A-22-34 NMSA 1978;
- 22 (21) Section 59A-22-34.1 NMSA 1978;
- 23 (22) Section 59A-22-34.3 NMSA 1978;
- 24 (23) Section 59A-22-35 NMSA 1978;
- 25 (24) Section 59A-22-36 NMSA 1978;

- 1 (25) Section 59A-22-39 NMSA 1978;
- 2 (26) Section 59A-22-39.1 NMSA 1978;
- 3 (27) Section 59A-22-40 NMSA 1978;
- 4 (28) Section 59A-22-40.1 NMSA 1978;
- 5 (29) Section 59A-22-41 NMSA 1978;
- 6 (30) Section 59A-22-42 NMSA 1978;
- 7 (31) Section 59A-22-43 NMSA 1978;
- 8 (32) Section 59A-22-44 NMSA 1978; and
- 9 (33) Section 59A-22-50 NMSA 1978."

10 **SECTION 24.** Section 59A-23-7.3 NMSA 1978 (being Laws
11 2003, Chapter 391, Section 3) is amended to read:

12 "59A-23-7.3. MAXIMUM AGE OF DEPENDENT.--Each blanket or
13 group health policy or certificate of insurance delivered,
14 issued for delivery or renewed in New Mexico on or after July
15 1, 2003 that provides coverage for an insured's dependent
16 shall not terminate coverage of an unmarried dependent by
17 reason of the dependent's age before the dependent's twenty-
18 sixth birthday, regardless of whether the dependent is
19 enrolled in an educational institution."

20 **SECTION 25.** Section 59A-23D-2 NMSA 1978 (being Laws
21 1995, Chapter 93, Section 2, as amended) is amended to read:

22 "59A-23D-2. DEFINITIONS.--As used in the Medical Care
23 Savings Account Act:

24 A. "account administrator" means any of the
25 following that administers medical care savings accounts:

1 (1) a national or state-chartered bank, savings
2 and loan association, savings bank or credit union;

3 (2) a trust company authorized to act as a
4 fiduciary in this state;

5 (3) an insurance company or health maintenance
6 organization authorized to do business in this state pursuant
7 to the Insurance Code; or

8 (4) a person approved by the federal secretary
9 of health and human services;

10 B. "deductible" means the total covered medical
11 expense an employee or the employee's dependents must pay
12 prior to any payment by a qualified higher deductible health
13 plan for a calendar year;

14 C. "department" means the office of superintendent
15 of insurance;

16 D. "dependent" means:

17 (1) a spouse;

18 (2) an unmarried or unemancipated child of the
19 employee who is a minor and who is:

20 (a) a natural child;

21 (b) a legally adopted child;

22 (c) a stepchild living in the same
23 household who is primarily dependent on the employee for
24 maintenance and support;

25 (d) a child for whom the employee is the

1 legal guardian and who is primarily dependent on the employee
2 for maintenance and support, as long as evidence of the
3 guardianship is evidenced in a court order or decree; or

4 (e) a foster child living in the same
5 household, if the child is not otherwise provided with health
6 care or health insurance coverage;

7 (3) an unmarried child described in
8 Subparagraphs (a) through (e) of Paragraph (2) of this
9 subsection who is between the ages of eighteen and twenty-
10 five; or

11 (4) a child over the age of eighteen who is
12 incapable of self-sustaining employment by reason of
13 intellectual or developmental disability or physical
14 disability and who is chiefly dependent on the employee for
15 support and maintenance;

16 E. "eligible individual" means an individual who
17 with respect to any month:

18 (1) is covered under a qualified higher
19 deductible health plan as of the first day of that month;

20 (2) is not, while covered under a qualified
21 higher deductible health plan, covered under a health plan
22 that:

23 (a) is not a qualified higher deductible
24 health plan; and

25 (b) provides coverage for a benefit that

1 is covered under the qualified higher deductible health plan;
2 and

3 (3) is covered by a qualified higher deductible
4 health plan that is established and maintained by the
5 employer of the individual or of the spouse of the
6 individual;

7 F. "eligible medical expense" means an expense paid
8 by the employee for medical care described in Section 213(d)
9 of the Internal Revenue Code of 1986 that is deductible for
10 federal income tax purposes to the extent that those amounts
11 are not compensated for by insurance or otherwise;

12 G. "employee" includes a self-employed individual;

13 H. "employer" includes a self-employed individual;

14 I. "medical care savings account" or "savings
15 account" means an account established by an employer in the
16 United States exclusively for the purpose of paying the
17 eligible medical expenses of the employee or dependent, but
18 only if the written governing instrument creating the trust
19 meets the following requirements:

20 (1) except in the case of a rollover
21 contribution, no contribution will be accepted:

22 (a) unless it is in cash; or

23 (b) to the extent the contribution, when
24 added to previous contributions to the trust for the calendar
25 year, exceeds seventy-five percent of the highest annual

1 limit deductible permitted pursuant to the Medical Care
2 Savings Account Act;

3 (2) no part of the trust assets will be
4 invested in life insurance contracts;

5 (3) the assets of the trust will not be
6 commingled with other property except in a common trust fund
7 or common investment fund; and

8 (4) the interest of an individual in the
9 balance in the individual's account is nonforfeitable;

10 J. "program" means the medical care savings account
11 program established by an employer for employees; and

12 K. "qualified higher deductible health plan" means
13 a health coverage policy, certificate or contract that
14 provides for payments for covered health care benefits that
15 exceed the policy, certificate or contract deductible, that
16 is purchased by an employer for the benefit of an employee
17 and that has the following deductible provisions:

18 (1) self-only coverage with an annual
19 deductible of not less than one thousand five hundred dollars
20 (\$1,500) or more than two thousand two hundred fifty dollars
21 (\$2,250) and a maximum annual out-of-pocket expense
22 requirement of three thousand dollars (\$3,000), not including
23 premiums;

24 (2) family coverage with an annual deductible
25 of not less than three thousand dollars (\$3,000) or more than

1 four thousand five hundred dollars (\$4,500) and a maximum
2 annual out-of-pocket expense requirement of five thousand
3 five hundred dollars (\$5,500), not including premiums; and

4 (3) preventive care coverage may be provided
5 within the policies without the preventive care being
6 subjected to the qualified higher deductibles."

7 SECTION 26. Section 59A-46-30 NMSA 1978 (being Laws
8 1993, Chapter 266, Section 29, as amended) is amended to
9 read:

10 "59A-46-30. STATUTORY CONSTRUCTION AND RELATIONSHIP TO
11 OTHER LAWS.--

12 A. The provisions of the Insurance Code other than
13 Chapter 59A, Article 46 NMSA 1978 shall not apply to health
14 maintenance organizations except as expressly provided in the
15 Insurance Code and that article. To the extent reasonable
16 and not inconsistent with the provisions of that article, the
17 following articles and provisions of the Insurance Code shall
18 also apply to health maintenance organizations and their
19 promoters, sponsors, directors, officers, employees, agents,
20 solicitors and other representatives. For the purposes of
21 such applicability, a health maintenance organization may
22 therein be referred to as an "insurer":

23 (1) Chapter 59A, Article 1 NMSA 1978;

24 (2) Chapter 59A, Article 2 NMSA 1978;

25 (3) Chapter 59A, Article 4 NMSA 1978;

- 1 (4) Subsection C of Section 59A-5-22 NMSA 1978;
- 2 (5) Sections 59A-6-2 through 59A-6-4 and
- 3 59A-6-6 NMSA 1978;
- 4 (6) Chapter 59A, Article 8 NMSA 1978;
- 5 (7) Chapter 59A, Article 10 NMSA 1978;
- 6 (8) Chapter 59A, Article 16 NMSA 1978;
- 7 (9) the Domestic Abuse Insurance Protection
- 8 Act;
- 9 (10) the Insurance Fraud Act;
- 10 (11) Chapter 59A, Article 18 NMSA 1978;
- 11 (12) the Policy Language Simplification Law;
- 12 (13) Section 59A-22-14 NMSA 1978;
- 13 (14) the Health Insurance Portability Act;
- 14 (15) Sections 59A-34-2, 59A-34-7 through
- 15 59A-34-13, 59A-34-17, 59A-34-23, 59A-34-33, 59A-34-36,
- 16 59A-34-37, 59A-34-40 through 59A-34-42 and 59A-34-44 through
- 17 59A-34-46 NMSA 1978;
- 18 (16) the Insurance Holding Company Law;
- 19 (17) the Patient Protection Act; and
- 20 (18) the Surprise Billing Protection Act.

21 B. Solicitation of enrollees by a health
22 maintenance organization granted a certificate of authority,
23 or its representatives, shall not be construed as violating
24 any provision of law relating to solicitation or advertising
25 by health professionals, but health professionals shall be

1 individually subject to the laws, rules and ethical
2 provisions governing their individual professions.

3 C. Any health maintenance organization authorized
4 under the provisions of the Health Maintenance Organization
5 Law shall not be deemed to be practicing medicine and shall
6 be exempt from the provisions of laws relating to the
7 practice of medicine."

8 SECTION 27. Section 59A-46-38.3 NMSA 1978 (being Laws
9 2003, Chapter 391, Section 5, as amended) is amended to read:

10 "59A-46-38.3. MAXIMUM AGE OF DEPENDENT.--Each individual
11 or group health maintenance organization contract delivered
12 or issued for delivery or renewed in New Mexico that provides
13 coverage for an enrollee's dependents shall not terminate
14 coverage of an unmarried dependent by reason of the
15 dependent's age before the dependent's twenty-sixth birthday,
16 regardless of whether the dependent is enrolled in an
17 educational institution; provided that this requirement does
18 not apply to the medicaid managed care system."

19 SECTION 28. Section 59A-46-42.1 NMSA 1978 (being Laws
20 2007, Chapter 278, Section 3) is amended to read:

21 "59A-46-42.1. COVERAGE FOR THE HUMAN PAPILLOMAVIRUS
22 VACCINE.--

23 A. An individual or group health maintenance
24 organization contract delivered, issued for delivery or
25 renewed in this state shall provide coverage for the human

1 papillomavirus vaccine in accordance with the current
2 standards of the federal centers for disease control and
3 prevention.

4 B. Coverage for the human papillomavirus vaccine
5 may be subject to deductibles and coinsurance consistent with
6 those imposed on other benefits under the same policy, plan
7 or certificate.

8 C. The provisions of this section shall not apply
9 to short-term travel, accident-only or limited or specified
10 disease policies.

11 D. For the purposes of this section, "human
12 papillomavirus vaccine" means a vaccine approved by the
13 federal food and drug administration used for the prevention
14 of human papillomavirus infection and cervical precancers."

15 **SECTION 29.** Section 59A-47-33 NMSA 1978 (being Laws
16 1984, Chapter 127, Section 879.32, as amended) is amended to
17 read:

18 "59A-47-33. OTHER PROVISIONS APPLICABLE.--The provisions
19 of the Insurance Code other than Chapter 59A, Article 47 NMSA
20 1978 shall not apply to health care plans except as expressly
21 provided in the Insurance Code and that article. To the
22 extent reasonable and not inconsistent with the provisions of
23 that article, the following articles and provisions of the
24 Insurance Code shall also apply to health care plans, their
25 promoters, sponsors, directors, officers, employees, agents,

1 solicitors and other representatives; and, for the purposes
2 of such applicability, a health care plan may therein be
3 referred to as an "insurer":

- 4 A. Chapter 59A, Article 1 NMSA 1978;
- 5 B. Chapter 59A, Article 2 NMSA 1978;
- 6 C. Chapter 59A, Article 4 NMSA 1978;
- 7 D. Subsection C of Section 59A-5-22 NMSA 1978;
- 8 E. Sections 59A-6-2 through 59A-6-4 and 59A-6-6
9 NMSA 1978;
- 10 F. Section 59A-7-11 NMSA 1978;
- 11 G. Chapter 59A, Article 8 NMSA 1978;
- 12 H. Chapter 59A, Article 10 NMSA 1978;
- 13 I. Section 59A-12-22 NMSA 1978;
- 14 J. Chapter 59A, Article 16 NMSA 1978;
- 15 K. Chapter 59A, Article 18 NMSA 1978;
- 16 L. Chapter 59A, Article 19 NMSA 1978;
- 17 M. Subsections B through E of Section 59A-22-5 NMSA
18 1978;
- 19 N. Section 59A-22-14 NMSA 1978;
- 20 O. Section 59A-22-34.1 NMSA 1978;
- 21 P. Section 59A-22-39 NMSA 1978;
- 22 Q. Section 59A-22-40 NMSA 1978;
- 23 R. Section 59A-22-40.1 NMSA 1978;
- 24 S. Section 59A-22-41 NMSA 1978;
- 25 T. Section 59A-22-42 NMSA 1978;

- 1 U. Section 59A-22-43 NMSA 1978;
- 2 V. Section 59A-22-44 NMSA 1978;
- 3 W. Section 59A-22-50 NMSA 1978;
- 4 X. Sections 59A-34-7 through 59A-34-13, 59A-34-17,
- 5 59A-34-23, 59A-34-33, 59A-34-40 through 59A-34-42 and
- 6 59A-34-44 through 59A-34-46 NMSA 1978;
- 7 Y. the Insurance Holding Company Law, except
- 8 Section 59A-37-7 NMSA 1978;
- 9 Z. Section 59A-46-15 NMSA 1978;
- 10 AA. the Patient Protection Act; and
- 11 BB. the Surprise Billing Protection Act."

12 **SECTION 30.** Section 59A-47-40 NMSA 1978 (being Laws
13 2003, Chapter 391, Section 7, as amended) is amended to read:

14 "59A-47-40. MAXIMUM AGE OF DEPENDENT.--An individual or
15 group health care coverage, including any form of self-
16 insurance, offered, issued or renewed under the Health Care
17 Purchasing Act that offers coverage of an insured's dependent
18 shall not terminate coverage of an unmarried dependent by
19 reason of the dependent's age before the dependent's twenty-
20 sixth birthday, regardless of whether the dependent is
21 enrolled in an educational institution."

22 **SECTION 31.** Section 59A-54-6 NMSA 1978 (being Laws 1987,
23 Chapter 154, Section 6, as amended) is amended to read:

24 "59A-54-6. NOTICE OF POOL.--

- 25 A. Every insurer shall provide a notice and an

1 application for coverage by the pool to any person who
2 receives:

3 (1) a rejection of coverage for health
4 insurance or health care services;

5 (2) a notice that the rate for health insurance
6 or coverage for health care services provided will exceed the
7 rates of a pool policy;

8 (3) a notice of reduction or limitation of
9 coverage, including a restrictive rider, from an insurer if
10 the effect of the reduction or limitation is to substantially
11 reduce coverage compared to the coverage available to a
12 person considered a standard risk for the type of coverage
13 provided by the plan; or

14 (4) a termination of coverage for health
15 insurance or health care services by either the carrier or
16 the covered individual.

17 B. The notice required by Subsection A of this
18 section shall state that the person is eligible to apply for
19 health insurance provided by the pool. Application for the
20 health insurance shall be on forms prescribed by the board
21 and made available to all insurers."

22 **SECTION 32.** Section 59A-54-8 NMSA 1978 (being Laws 1987,
23 Chapter 154, Section 8) is amended to read:

24 "59A-54-8. EXAMINATION.--The pool shall be subject to
25 and responsible for examination by the superintendent. Not

1 later than June 1 of each year, the board shall submit to the
2 superintendent an audited financial report for the preceding
3 calendar year in a form approved by the superintendent."

4 SECTION 33. Section 59A-54-11 NMSA 1978 (being Laws
5 1987, Chapter 154, Section 11, as amended) is amended to
6 read:

7 "59A-54-11. POOL ADMINISTRATOR--SELECTION--DUTIES.--

8 A. The board shall select a pool administrator
9 through a competitive bidding process. The board shall
10 evaluate bids based on criteria established by the board,
11 which shall include:

12 (1) proven ability to handle accident and
13 health insurance;

14 (2) efficiency of claim paying procedures;

15 (3) an estimate of total charges for
16 administering the plan; and

17 (4) ability to administer the pool in a cost-
18 efficient manner.

19 B. The pool administrator shall serve for a period
20 not to exceed that provided in Subsection B of Section
21 13-1-150 NMSA 1978, subject to removal for cause. At least
22 one year prior to the expiration of the pool administrator's
23 contract, the board shall invite all interested parties,
24 including the current administrator, to submit bids to serve
25 as the pool administrator for the succeeding contract period.

1 Selection of the administrator for a succeeding period shall
2 be made at least six months prior to the expiration of the
3 pool administrator's current contract.

4 C. The pool administrator shall:

5 (1) perform all eligibility and administrative
6 claim payment functions relating to the pool;

7 (2) establish a premium billing procedure for
8 collection of premiums from insured persons. Billings shall
9 be made on a periodic basis, not less than monthly, as
10 determined by the board;

11 (3) perform all necessary functions to assure
12 timely payment of benefits to persons covered under the pool,
13 including:

14 (a) making information available relating
15 to the proper manner of submitting a claim for benefits to
16 the pool and distributing forms upon which submission shall
17 be made; and

18 (b) evaluating the eligibility of each
19 claim for payment by the pool;

20 (4) submit regular reports to the board
21 regarding the operation of the pool. The frequency, content
22 and form of the report shall be as determined by the board;
23 and

24 (5) following the close of each fiscal year,
25 determine net written and earned premiums, the expense of

1 administration and the paid and incurred losses for the year
2 and report this information to the board and the
3 superintendent on a form prescribed by the superintendent.

4 D. The administrator shall be paid as provided in
5 the contract negotiated pursuant to the process for selection
6 of the administrator established by the board."

7 **SECTION 34.** Section 59A-54-14 NMSA 1978 (being Laws
8 1987, Chapter 154, Section 14, as amended) is amended to
9 read:

10 "59A-54-14. DEDUCTIBLES--COINSURANCE--MAXIMUM OUT-OF-
11 POCKET PAYMENTS.--

12 A. Subject to the limitation provided in Subsection
13 C of this section, a pool policy offered in accordance with
14 the Medical Insurance Pool Act shall impose a deductible on a
15 per-person calendar-year basis. Deductible plans of five
16 hundred dollars (\$500) and one thousand dollars (\$1,000)
17 shall initially be offered. The board may authorize
18 deductibles in other amounts. The deductible shall be
19 applied to the first five hundred dollars (\$500) or one
20 thousand dollars (\$1,000) of eligible expenses incurred by
21 the covered person.

22 B. Subject to the limitations provided in
23 Subsection C of this section, a mandatory coinsurance
24 requirement shall be imposed at the rate determined by the
25 board.

1 C. The maximum aggregate out-of-pocket payments for
2 eligible expenses by the insured shall be determined by the
3 board."

4 **SECTION 35.** Section 59A-54-19 NMSA 1978 (being Laws
5 1987, Chapter 154, Section 19, as amended) is amended to
6 read:

7 "59A-54-19. RATES--STANDARD RISK RATE.--

8 A. The pool shall determine a standard risk rate by
9 actuarially calculating the individual rate that an insurer
10 would charge for an individual policy with the pool benefits
11 issued to a person who was a standard risk. Separate
12 schedules of standard risk rates based on age and other
13 appropriate demographic characteristics may be used. In
14 determining the standard risk rate, the pool shall consider
15 the benefits provided, the standard risk experience and the
16 anticipated expenses for a standard risk for the coverage
17 provided. The rates charged for pool coverage shall be no
18 more than one hundred fifty percent of the standard risk rate
19 for each class of insureds.

20 B. The board shall adopt a low-income premium
21 schedule that provides coverage at lower rates for those
22 persons with an income less than four hundred percent of the
23 current federal poverty level guidelines applicable to New
24 Mexico, published by the United States department of health
25 and human services. For individuals with household incomes

1 of one hundred ninety-nine percent of the federal poverty
2 level or lower, the premium reduction shall be seventy-five
3 percent. For individuals with household incomes of two
4 hundred percent to two hundred ninety-nine percent of the
5 federal poverty level, the premium reduction shall be fifty
6 percent. For individuals with household incomes of three
7 hundred percent to three hundred ninety-nine percent of the
8 federal poverty level, the premium reduction shall be twenty-
9 five percent. The board shall determine income based on the
10 preceding taxable year. No person shall be eligible for a
11 low-income premium reduction if that person's premium is paid
12 by a third party who is not a family member.

13 C. All rates and rate schedules shall be submitted
14 to the superintendent for approval."

15 SECTION 36. Section 59A-58-5 NMSA 1978 (being Laws 2001,
16 Chapter 206, Section 5, as amended) is amended to read:

17 "59A-58-5. REGISTRATION REQUIREMENTS.--

18 A. A provider who wishes to issue, sell or offer
19 for sale service contracts in this state must submit to the
20 superintendent:

21 (1) a registration application on a form
22 prescribed by the superintendent;

23 (2) proof that the provider has complied with
24 the requirements for security pursuant to Section 59A-58-6
25 NMSA 1978;

1 (3) the name, address and telephone number of
2 each administrator with whom the provider intends to
3 contract, if any; and

4 (4) provided that House Bill 248 of the first
5 session of the fifty-fifth legislature:

6 (a) becomes law, the registration renewal
7 fee provided in Section 59A-6-1 NMSA 1978; or

8 (b) does not become law, a fee of five
9 hundred dollars (\$500).

10 B. A provider's registration is valid for one year
11 after the date the registration is filed. A provider may
12 renew the provider's registration if, before the registration
13 expires, the provider submits to the superintendent an
14 application on a form prescribed by the superintendent and,
15 provided that House Bill 248 of the first session of the
16 fifty-fifth legislature:

17 (1) becomes law, the registration renewal fee
18 provided in Section 59A-6-1 NMSA 1978; or

19 (2) does not become law, a fee of five hundred
20 dollars (\$500).

21 C. The provisions of this section shall not apply
22 to major manufacturing companies' service contracts.

23 D. Service contract forms are not required to be
24 filed with the superintendent."

25 SECTION 37. REPEAL.--Sections 59A-23-9, 59A-46-51 and

1 59A-47-46 NMSA 1978 (being Laws 1997, Chapter 243, Section 20
2 and Laws 2010, Chapter 94, Sections 3 and 4, as amended) are
3 repealed.

4 SECTION 38. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2021. _____

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