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SENATE BILL 299

**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

INTRODUCED BY

Howie C. Morales

AN ACT

RELATING TO HEALTH CARE; UPDATING CERTAIN SECTIONS OF LAW TO INCLUDE AN ADVANCED PRACTICE REGISTERED NURSE, A CERTIFIED NURSE-MIDWIFE OR A PHYSICIAN ASSISTANT WORKING WITHIN THAT PERSON'S SCOPE OF PRACTICE; EXPANDING CERTAIN PROVISIONS OF THE UNIFORM HEALTH-CARE DECISIONS ACT TO INCLUDE NON-PHYSICIAN PRIMARY CARE PRACTITIONERS; REQUIRING STATE AGENCIES AND POLITICAL SUBDIVISIONS TO UPDATE THEIR RULES TO INCLUDE THESE HEALTH CARE PRACTITIONERS WHERE APPROPRIATE.

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

**SECTION 1.** Section 7-2-18.1 NMSA 1978 (being Laws 1981, Chapter 170, Section 1, as amended) is amended to read:

"7-2-18.1. CREDIT FOR EXPENSES FOR DEPENDENT CHILD DAY CARE NECESSARY TO ENABLE GAINFUL EMPLOYMENT TO PREVENT INDIGENCY.--

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1           A. As used in this section:

2                   (1) "caregiver" means a corporation or an  
3 individual eighteen years of age or over who receives  
4 compensation from ~~[the]~~ a resident for providing direct care,  
5 supervision and guidance to a qualifying dependent of the  
6 resident for less than twenty-four hours daily and includes  
7 related individuals of the resident but does not include a  
8 dependent of the resident;

9                   (2) "cost of maintaining a household" means  
10 the expenses incurred for the mutual benefit of the occupants  
11 thereof by reason of its operation as the principal place of  
12 abode of such occupants, including property taxes, mortgage  
13 interest, rent, utility charges, upkeep and repairs, property  
14 insurance and food consumed on the premises. "Cost of  
15 maintaining a household" shall not include expenses otherwise  
16 incurred, including cost of clothing, education, medical  
17 treatment, vacations, life insurance, transportation and  
18 mortgages;

19                   (3) "dependent" means "dependent" as defined  
20 by Section 152 of the Internal Revenue Code, as that section  
21 may be amended or renumbered, but also includes any minor child  
22 or stepchild of the resident who would be a dependent for  
23 federal income tax purposes if the public assistance  
24 contributing to the support of the child or stepchild was  
25 considered to have been contributed by the resident;

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1 (4) "disabled person" means a person who has a  
2 medically determinable physical or mental impairment, as  
3 certified by a licensed physician or an advanced practice  
4 registered nurse, certified nurse-midwife or physician  
5 assistant working within that person's scope of practice, that  
6 renders such person unable to engage in gainful employment;

7 (5) "gainfully employed" means working for  
8 remuneration for others, either full time or part time, or  
9 self-employment in a business or partnership; and

10 (6) "qualifying dependent" means a dependent  
11 under the age of fifteen at the end of the taxable year who  
12 receives the services of a caregiver.

13 B. Any resident who files an individual New Mexico  
14 income tax return and who is not a dependent of another  
15 taxpayer may claim a credit for child day care expenses  
16 incurred and paid to a caregiver in New Mexico during the  
17 taxable year by such resident if the resident:

18 (1) singly or together with a spouse furnishes  
19 over half the cost of maintaining the household for one or more  
20 qualifying dependents for any period in the taxable year for  
21 which the credit is claimed;

22 (2) is gainfully employed for any period for  
23 which the credit is claimed or, if a joint return is filed,  
24 both spouses are gainfully employed or one is disabled for any  
25 period for which the credit is claimed;

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1 (3) compensates a caregiver for child  
2 day care for a qualifying dependent to enable such resident  
3 together with [~~his~~] the resident's spouse, if any and if not  
4 disabled, to be gainfully employed;

5 (4) is not a recipient of public assistance  
6 under a program of aid to families with dependent children, a  
7 program under the New Mexico Works Act or any successor program  
8 during any period for which the credit provided by this section  
9 is claimed; and

10 (5) has a modified gross income, including  
11 child support payments, if any, of not more than the annual  
12 income that would be derived from earnings at double the  
13 federal minimum wage.

14 C. The credit provided for in this section shall be  
15 forty percent of the actual compensation paid to a caregiver by  
16 the resident for a qualifying dependent not to exceed four  
17 hundred eighty dollars (\$480) for each qualifying dependent or  
18 a total of one thousand two hundred dollars (\$1,200) for all  
19 qualifying dependents for a taxable year. For the purposes of  
20 computing the credit, actual compensation shall not exceed  
21 eight dollars (\$8.00) per day for each qualifying dependent.

22 D. The caregiver shall furnish the resident with a  
23 signed statement of compensation paid by the resident to the  
24 caregiver for day care services. Such statements shall specify  
25 the dates and the total number of days for which payment has

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1       been made.

2                   E. If the resident taxpayer has a federal tax  
3 liability, the taxpayer shall claim from the state not more  
4 than the difference between the amount of the state child care  
5 credit for which the taxpayer is eligible and the federal  
6 credit for child and dependent care expenses the taxpayer is  
7 able to deduct from federal tax liability for the same taxable  
8 year; provided, for first year residents only, the amount of  
9 the federal credit for child and dependent care expenses may be  
10 reduced to an amount equal to the amount of federal credit for  
11 child and dependent care expenses the resident is able to  
12 deduct from federal tax liability multiplied by the ratio of  
13 the number of days of residence in New Mexico during the  
14 resident's taxable year to the total number of days in the  
15 resident's taxable year.

16                   F. The credit provided for in this section may be  
17 deducted from the taxpayer's New Mexico income tax liability  
18 for the taxable year. If the credit exceeds the taxpayer's  
19 income tax liability, the excess shall be refunded to the  
20 taxpayer.

21                   G. A husband and wife maintaining a household for  
22 one or more qualifying dependents and filing separate returns  
23 for a taxable year for which they could have filed a joint  
24 return:

25                           (1) may each claim only one-half of the credit

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1 that would have been claimed on a joint return; and

2 (2) are eligible for the credit provided in  
3 this section only if their joint modified gross income,  
4 including child support payments, if any, is not more than the  
5 annual income that would be derived from earnings at double the  
6 federal minimum wage."

7 SECTION 2. Section 12-10A-13 NMSA 1978 (being Laws 2003,  
8 Chapter 218, Section 13) is amended to read:

9 "12-10A-13. VACCINATION AND TREATMENT.--

10 A. During a state of public health emergency, a  
11 qualified person authorized by the secretary of health may  
12 vaccinate persons to prevent infection by a threatening  
13 communicable disease and to protect against the spread of that  
14 disease.

15 B. To protect against the spread of a threatening  
16 communicable disease, the secretary of health may isolate or  
17 quarantine a person who is unable or unwilling for reasons of  
18 health, religion or conscience to undergo vaccination pursuant  
19 to the standards and procedures set forth in the Public Health  
20 Emergency Response Act.

21 C. A qualified person authorized by the secretary  
22 of health may vaccinate a minor less than eighteen years of  
23 age, unless the minor or ~~[his]~~ the minor's duly authorized  
24 representative presents a certificate issued by a duly licensed  
25 physician or an advanced practice registered nurse, certified

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1 nurse-midwife or physician assistant working within that  
2 person's scope of practice that states that the minor's  
3 physical condition is such that the vaccination would seriously  
4 endanger [~~his~~] the minor's life or health.

5 D. During a state of public health emergency, in  
6 order to provide treatment to a person who is exposed to or  
7 infected with a threatening communicable disease:

8 (1) treatment may be administered by a public  
9 health official;

10 (2) treatment shall be approved pursuant to  
11 appropriate regulations promulgated by the federal food and  
12 drug administration; and

13 (3) the secretary of health may isolate or  
14 quarantine a person who is unable or unwilling, for reasons of  
15 health, religion or conscience, to undergo treatment pursuant  
16 to the standards and procedures set forth in the Public Health  
17 Emergency Response Act."

18 SECTION 3. Section 22-10A-34 NMSA 1978 (being Laws 1967,  
19 Chapter 16, Section 112, as amended) is amended to read:

20 "22-10A-34. COMMUNICABLE DISEASES--PROHIBITED  
21 EMPLOYMENT--PENALTY.--

22 A. No person afflicted with a communicable disease  
23 in a transmissible [~~state~~] stage dangerous to the health of  
24 students shall be employed in a public or private school in  
25 this state.

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1           B. The department of health after consultation with  
2 the [~~state board~~] public education department shall adopt and  
3 issue regulations designating those communicable diseases in a  
4 transmissible stage that are dangerous to the health of  
5 students.

6           C. Each person employed in a public or private  
7 school, including bus drivers, shall present to the governing  
8 authority of the school where employed, upon initial  
9 employment, a certificate from a licensed physician or an  
10 advanced practice registered nurse, certified nurse-midwife or  
11 physician assistant working within that person's scope of  
12 practice stating that the person is free from all communicable  
13 diseases in a transmissible stage dangerous to the health of  
14 students.

15           D. The certificate from a licensed physician or an  
16 advanced practice registered nurse, certified nurse-midwife or  
17 physician assistant working within that person's scope of  
18 practice shall be according to a form prescribed by the  
19 department of health and approved by the [~~state board~~] public  
20 education department. The certificate [~~must~~] shall be obtained  
21 from a licensed physician or an advanced practice registered  
22 nurse, certified nurse-midwife or physician assistant working  
23 within that person's scope of practice not more than ninety  
24 days prior to the date of employment.

25           E. Any person violating the provisions of this

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1 section by not obtaining a certificate from a licensed  
2 physician or an advanced practice registered nurse, certified  
3 nurse-midwife or physician assistant working within that  
4 person's scope of practice as required is guilty of a petty  
5 misdemeanor."

6 SECTION 4. Section 24-7A-1 NMSA 1978 (being Laws 1995,  
7 Chapter 182, Section 1, as amended) is amended to read:

8 "24-7A-1. DEFINITIONS.--As used in the Uniform Health-  
9 Care Decisions Act:

10 A. "advance health-care directive" means an  
11 individual instruction or a power of attorney for health care  
12 made, in either case, while the individual has capacity;

13 B. "agent" means an individual designated in a  
14 power of attorney for health care to make a health-care  
15 decision for the individual granting the power;

16 C. "capacity" means an individual's ability to  
17 understand and appreciate the nature and consequences of  
18 proposed health care, including its significant benefits, risks  
19 and alternatives to proposed health care and to make and  
20 communicate an informed health-care decision. A determination  
21 of lack of capacity shall be made only according to the  
22 provisions of Section 24-7A-11 NMSA 1978;

23 D. "emancipated minor" means an individual between  
24 the ages of sixteen and eighteen who has been married, who is  
25 on active duty in the armed forces or who has been declared by

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1 court order to be emancipated;

2 E. "guardian" means a judicially appointed guardian  
3 or conservator having authority to make a health-care decision  
4 for an individual;

5 F. "health care" means any care, treatment, service  
6 or procedure to maintain, diagnose or otherwise affect an  
7 individual's physical or mental condition;

8 G. "health-care decision" means a decision made by  
9 an individual or the individual's agent, guardian or surrogate,  
10 regarding the individual's health care, including:

11 (1) selection and discharge of health-care  
12 [~~providers~~] practitioners and institutions;

13 (2) approval or disapproval of diagnostic  
14 tests, surgical procedures, programs of medication and orders  
15 not to resuscitate;

16 (3) directions relating to life-sustaining  
17 treatment, including withholding or withdrawing life-sustaining  
18 treatment and the termination of life support; and

19 (4) directions to provide, withhold or  
20 withdraw artificial nutrition and hydration and all other forms  
21 of health care;

22 H. "health-care institution" means an institution,  
23 facility or agency licensed, certified or otherwise authorized  
24 or permitted by law to provide health care in the ordinary  
25 course of business;

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1 I. "health-care ~~[provider]~~ practitioner" means an  
2 individual licensed, certified or otherwise authorized or  
3 permitted by law to provide health care in the ordinary course  
4 of business or practice of a profession;

5 J. "individual instruction" means an individual's  
6 direction concerning a health-care decision for the individual  
7 made while the individual has capacity;

8 K. "life-sustaining treatment" means any medical  
9 treatment or procedure without which the individual is likely  
10 to die within a relatively short time, as determined to a  
11 reasonable degree of medical certainty by the primary  
12 ~~[physician]~~ care practitioner;

13 L. "person" means an individual, corporation,  
14 business trust, estate, trust, partnership, association, joint  
15 venture, government, governmental subdivision, agency or  
16 instrumentality or any other legal or commercial entity;

17 M. "physician" means an individual authorized to  
18 practice medicine or osteopathy;

19 N. "power of attorney for health care" means the  
20 designation of an agent to make health-care decisions for the  
21 individual granting the power, made while the individual has  
22 capacity;

23 O. "primary ~~[physician]~~ ~~means a physician~~  
24 ~~designated by an individual or the individual's agent, guardian~~  
25 ~~or surrogate to have primary responsibility for the~~

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1 ~~individual's health care or, in the absence of a designation or~~  
2 ~~if the designated physician is not reasonably available, a~~  
3 ~~physician who undertakes the responsibility]~~ care practitioner"  
4 means a health-care practitioner designated by an individual or  
5 the individual's agent, guardian or surrogate to have primary  
6 responsibility for the individual's health care;

7 P. "principal" means an adult or emancipated minor  
8 who, while having capacity, has made a power of attorney for  
9 health care by which the adult or emancipated minor delegates  
10 the right to make health-care decisions for the adult or  
11 emancipated minor to an agent;

12 Q. "protected person" means an adult or emancipated  
13 minor for whom a guardian has been appointed;

14 R. "qualified health-care professional" means a  
15 health-care [~~provider~~] practitioner who is a physician,  
16 physician assistant, nurse practitioner, nurse, psychologist or  
17 social worker;

18 S. "reasonably available" means readily able to be  
19 contacted without undue effort and willing and able to act in a  
20 timely manner considering the urgency of the patient's health-  
21 care needs;

22 T. "state" means a state of the United States, the  
23 District of Columbia, the commonwealth of Puerto Rico or a  
24 territory or insular possession subject to the jurisdiction of  
25 the United States;

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1 U. "supervising health-care [~~provider~~  
2 practitioner" means the primary [~~physician or, if there is no~~  
3 ~~primary physician or the primary physician is not reasonably~~  
4 ~~available, the health-care provider who has undertaken primary~~  
5 ~~responsibility for an individual's health]~~ care practitioner,  
6 or if there is no primary care practitioner or if the primary  
7 care practitioner is not reasonably available, the health-care  
8 practitioner who has undertaken primary responsibility for an  
9 individual's health care; and

10 V. "surrogate" means an individual, other than a  
11 patient's agent or guardian, authorized under the Uniform  
12 Health-Care Decisions Act to make a health-care decision for  
13 the patient."

14 SECTION 5. Section 24-7A-4 NMSA 1978 (being Laws 1995,  
15 Chapter 182, Section 4, as amended) is amended to read:

16 "24-7A-4. OPTIONAL FORM.--The following form may, but  
17 need not, be used to create an advance health-care directive.  
18 The other sections of the Uniform Health-Care Decisions Act  
19 govern the effect of this or any other writing used to create  
20 an advance health-care directive. An individual may complete  
21 or modify all or any part of the following form:

22 "OPTIONAL ADVANCE HEALTH-CARE DIRECTIVE

23 **Explanation**

24 You have the right to give instructions about your own  
25 health care. You also have the right to name someone else to

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1 make health-care decisions for you. This form lets you do  
2 either or both of these things. It also lets you express your  
3 wishes regarding the designation of your primary [~~physician~~  
4 care practitioner].

5 THIS FORM IS OPTIONAL. Each paragraph and word of this  
6 form is also optional. If you use this form, you may cross  
7 out, complete or modify all or any part of it. You are free to  
8 use a different form. If you use this form, be sure to sign it  
9 and date it.

10 PART 1 of this form is a power of attorney for health  
11 care. PART 1 lets you name another individual as agent to make  
12 health-care decisions for you if you become incapable of making  
13 your own decisions or if you want someone else to make those  
14 decisions for you now even though you are still capable. You  
15 may also name an alternate agent to act for you if your first  
16 choice is not willing, able or reasonably available to make  
17 decisions for you. Unless related to you, your agent may not  
18 be an owner, operator or employee of a health-care institution  
19 at which you are receiving care.

20 Unless the form you sign limits the authority of your  
21 agent, your agent may make all health-care decisions for you.  
22 This form has a place for you to limit the authority of your  
23 agent. You need not limit the authority of your agent if you  
24 wish to rely on your agent for all health-care decisions that  
25 may have to be made. If you choose not to limit the authority

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1 of your agent, your agent will have the right to:

- 2 (a) consent or refuse consent to any care,  
3 treatment, service or procedure to maintain,  
4 diagnose or otherwise affect a physical or  
5 mental condition;
- 6 (b) select or discharge health-care [~~providers~~  
7 practitioners] and institutions;
- 8 (c) approve or disapprove diagnostic tests,  
9 surgical procedures, programs of medication and  
10 orders not to resuscitate; and
- 11 (d) direct the provision, withholding or withdrawal  
12 of artificial nutrition and hydration and all  
13 other forms of health care.

14 PART 2 of this form lets you give specific instructions  
15 about any aspect of your health care. Choices are provided for  
16 you to express your wishes regarding life-sustaining treatment,  
17 including the provision of artificial nutrition and hydration,  
18 as well as the provision of pain relief. In addition, you may  
19 express your wishes regarding whether you want to make an  
20 anatomical gift of some or all of your organs and tissue.  
21 Space is also provided for you to add to the choices you have  
22 made or for you to write out any additional wishes.

23 PART 3 of this form lets you designate a [~~physician~~  
24 primary care practitioner] to have primary responsibility for  
25 your health care.

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1 After completing this form, sign and date the form at the  
2 end. It is recommended but not required that you request two  
3 other individuals to sign as witnesses. Give a copy of the  
4 signed and completed form to your physician, to any other  
5 health-care ~~[providers]~~ practitioners you may have, to any  
6 health-care institution at which you are receiving care and to  
7 any health-care agents you have named. You should talk to the  
8 person you have named as agent to make sure that he or she  
9 understands your wishes and is willing to take the  
10 responsibility.

11 You have the right to revoke this advance health-care  
12 directive or replace this form at any time.

13 \* \* \* \* \*

14 PART 1

15 POWER OF ATTORNEY FOR HEALTH CARE

16 (1) DESIGNATION OF AGENT: I designate the  
17 following individual as my agent to make health-care decisions  
18 for me:

19 \_\_\_\_\_

20 (name of individual you choose as agent)

21 \_\_\_\_\_

22 (address) (city) (state) (zip code)

23 \_\_\_\_\_

24 (home phone) (work phone)

25 If I revoke my agent's authority or if my agent is not

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1 willing, able or reasonably available to make a health-care  
2 decision for me, I designate as my first alternate agent:

3 \_\_\_\_\_  
4 (name of individual you choose as first alternate agent)

5 \_\_\_\_\_  
6 (address) (city) (state) (zip code)

7 \_\_\_\_\_  
8 (home phone) (work phone)

9 If I revoke the authority of my agent and first alternate  
10 agent or if neither is willing, able or reasonably available to  
11 make a health-care decision for me, I designate as my second  
12 alternate agent:

13 \_\_\_\_\_  
14 (name of individual you choose as second alternate agent)

15 \_\_\_\_\_  
16 (address) (city) (state) (zip code)

17 \_\_\_\_\_  
18 (home phone) (work phone)

19 (2) AGENT'S AUTHORITY: My agent is authorized to  
20 obtain and review medical records, reports and information  
21 about me and to make all health-care decisions for me,  
22 including decisions to provide, withhold or withdraw artificial  
23 nutrition, hydration and all other forms of health care to keep  
24 me alive, except as I state here:

25 \_\_\_\_\_

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(Add additional sheets if needed.)

(3) WHEN AGENT'S AUTHORITY BECOMES EFFECTIVE: My agent's authority becomes effective when my primary [~~physician~~] care practitioner and one other qualified health-care professional determine that I am unable to make my own health-care decisions. If I initial this box [ ], my agent's authority to make health-care decisions for me takes effect immediately.

(4) AGENT'S OBLIGATION: My agent shall make health-care decisions for me in accordance with this power of attorney for health care, any instructions I give in PART 2 of this form and my other wishes to the extent known to my agent. To the extent my wishes are unknown, my agent shall make health-care decisions for me in accordance with what my agent determines to be in my best interest. In determining my best interest, my agent shall consider my personal values to the extent known to my agent.

(5) NOMINATION OF GUARDIAN: If a guardian of my person needs to be appointed for me by a court, I nominate the agent designated in this form. If that agent is not willing, able or reasonably available to act as guardian, I nominate the alternate agents whom I have named, in the order designated.

PART 2

INSTRUCTIONS FOR HEALTH CARE

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1           If you are satisfied to allow your agent to determine what  
2 is best for you in making end-of-life decisions, you need not  
3 fill out this part of the form. If you do fill out this part  
4 of the form, you may cross out any wording you do not want.

5           (6) END-OF-LIFE DECISIONS: If I am unable to make  
6 or communicate decisions regarding my health care, and IF (i) I  
7 have an incurable or irreversible condition that will result in  
8 my death within a relatively short time, OR (ii) I become  
9 unconscious and, to a reasonable degree of medical certainty, I  
10 will not regain consciousness, OR (iii) the likely risks and  
11 burdens of treatment would outweigh the expected benefits, THEN  
12 I direct that my health-care [~~providers~~] practitioners and  
13 others involved in my care provide, withhold or withdraw  
14 treatment in accordance with the choice I have initialed below  
15 in **one** of the following three boxes:

16           [ ]           I CHOOSE NOT To Prolong Life  
17                            I do not want my life to be prolonged.

18           [ ]           I CHOOSE To Prolong Life  
19                            I want my life to be prolonged as long as  
20 possible within the limits of generally accepted health-care  
21 standards.

22           [ ]           I CHOOSE To Let My Agent Decide  
23                            My agent under my power of attorney for  
24 health care may make life-sustaining treatment decisions for  
25 me.

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1                   (7) ARTIFICIAL NUTRITION AND HYDRATION: If I have  
2 chosen above NOT to prolong life, I also specify by marking my  
3 initials below:

4           [ ]           I DO NOT want artificial nutrition OR

5           [ ]           I DO want artificial nutrition.

6           [ ]           I DO NOT want artificial hydration unless  
7 required for my comfort OR

8           [ ]           I DO want artificial hydration.

9                   (8) RELIEF FROM PAIN: Regardless of the choices I  
10 have made in this form and except as I state in the following  
11 space, I direct that the best medical care possible to keep me  
12 clean, comfortable and free of pain or discomfort be provided  
13 at all times so that my dignity is maintained, even if this  
14 care hastens my death:

15 \_\_\_\_\_  
16 \_\_\_\_\_

17                   (9) ANATOMICAL GIFT DESIGNATION: Upon my death I  
18 specify as marked below whether I choose to make an anatomical  
19 gift of all or some of my organs or tissue:

20           [ ]           I CHOOSE to make an anatomical gift of all of  
21 my organs or tissue to be determined by medical suitability at  
22 the time of death, and artificial support may be maintained  
23 long enough for organs to be removed.

24           [ ]           I CHOOSE to make a partial anatomical gift of  
25 some of my organs and tissue as specified below, and artificial

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1 support may be maintained long enough for organs to be removed.

2 \_\_\_\_\_  
3 \_\_\_\_\_

4 [ ] I REFUSE to make an anatomical gift of any of  
5 my organs or tissue.

6 [ ] I CHOOSE to let my agent decide.

7 (10) OTHER WISHES: (If you wish to write your own  
8 instructions, or if you wish to add to the instructions you  
9 have given above, you may do so here.) I direct that:

10 \_\_\_\_\_  
11 \_\_\_\_\_

(Add additional sheets if needed.)

PART 3

PRIMARY [PHYSICIAN] CARE PRACTITIONER

15 (11) I designate the following [~~physician as my~~  
16 ~~primary physician~~] as my primary care practitioner:

17 \_\_\_\_\_

(name of [~~physician~~] primary care practitioner)

19 \_\_\_\_\_

20 (address) (city) (state) (zip code)

21 \_\_\_\_\_

(phone)

23 If the [~~physician~~] primary care practitioner I have  
24 designated above is not willing, able or reasonably available  
25 to act as my primary [~~physician~~] care practitioner, I designate

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1 the following [~~physician as my primary physician~~] as my primary  
2 care practitioner:

3 \_\_\_\_\_

4 (name of [~~physician~~] primary care practitioner)

5 \_\_\_\_\_

6 (address) (city) (state) (zip code)

7 \_\_\_\_\_

8 (phone)

9 \* \* \* \* \*

10 (12) EFFECT OF COPY: A copy of this form has the  
11 same effect as the original.

12 (13) REVOCATION: I understand that I may revoke  
13 this OPTIONAL ADVANCE HEALTH-CARE DIRECTIVE at any time, and  
14 that if I revoke it, I should promptly notify my supervising  
15 health-care [~~provider~~] practitioner and any health-care  
16 institution where I am receiving care and any others to whom I  
17 have given copies of this power of attorney. I understand that  
18 I may revoke the designation of an agent either by a signed  
19 writing or by personally informing the supervising health-care  
20 [~~provider~~] practitioner.

21 (14) SIGNATURES: Sign and date the form here:

22 \_\_\_\_\_

23 (date) (sign your name)

24 \_\_\_\_\_

25 (address) (print your name)

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(city)	(state)	(your social security number)	
(Optional) SIGNATURES OF WITNESSES:			
First witness		Second witness	
_____		_____	
(print name)		(print name)	
_____		_____	
(address)		(address)	
_____		_____	
(city)	(state)	(city)	(state)
_____		_____	
(signature of witness)		(signature of witness)	
_____		_____	
(date)		(date)"."	

SECTION 6. Section 24-7A-6.1 NMSA 1978 (being Laws 1997, Chapter 168, Section 13, as amended) is amended to read:

"24-7A-6.1. LIFE-SUSTAINING TREATMENT FOR UNEMANCIPATED MINORS.--

A. Except as otherwise provided by law, a parent or guardian of an unemancipated minor may make that minor's health-care decisions.

B. A parent or guardian of an unemancipated minor shall have the authority to withhold or withdraw life-sustaining treatment for the unemancipated minor, subject to the provisions of this section and the standards for surrogate

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1 decision-making for adults provided for in the Uniform Health-  
2 Care Decisions Act.

3 C. Subject to the provisions of Subsection B of  
4 this section, if an unemancipated minor has capacity sufficient  
5 to understand the nature of that unemancipated minor's medical  
6 condition, the risks and benefits of treatment and the  
7 contemplated decision to withhold or withdraw life-sustaining  
8 treatment, that unemancipated minor shall have the authority to  
9 withhold or withdraw life-sustaining treatment.

10 D. For purposes of Subsection C of this section, a  
11 determination of the mental and emotional capacity of an  
12 unemancipated minor shall be determined by two qualified  
13 health-care professionals, one of whom shall be the  
14 unemancipated minor's primary [~~physician~~] care practitioner and  
15 the other of whom shall be a [~~physician~~] health-care  
16 practitioner that works with unemancipated minors of the  
17 minor's age in the ordinary course of that [~~physician's~~]  
18 health-care practitioner's practice. If the unemancipated  
19 minor lacks capacity due to mental illness or developmental  
20 disability, one of the qualified health-care professionals  
21 shall be a person whose training and expertise aid in the  
22 assessment of functional impairment.

23 E. If the unemancipated minor's primary [~~physician~~]  
24 care practitioner has reason to believe that a parent or  
25 guardian of an unemancipated minor, including a non-custodial

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1 parent, has not been informed of a decision to withhold or  
2 withdraw life-sustaining treatment, the primary [~~physician~~  
3 care practitioner] shall make reasonable efforts to determine if  
4 the uninformed parent or guardian has maintained substantial  
5 and continuous contact with the unemancipated minor and, if so,  
6 shall make reasonable efforts to notify that parent or guardian  
7 before implementing a decision.

8 F. If there is disagreement regarding the decision  
9 to withhold or withdraw life-sustaining treatment for an  
10 unemancipated minor, the provisions of Section 24-7A-11 NMSA  
11 1978 shall apply."

12 SECTION 7. Section 24-7A-7 NMSA 1978 (being Laws 1995,  
13 Chapter 182, Section 7, as amended) is amended to read:

14 "24-7A-7. OBLIGATIONS OF HEALTH-CARE [~~PROVIDER~~  
15 PRACTITIONER].--

16 A. Before implementing a health-care decision made  
17 for a patient, a supervising health-care [~~provider~~  
18 practitioner] shall promptly communicate to the patient the  
19 decision made and the identity of the person making the  
20 decision.

21 B. A supervising health-care [~~provider~~  
22 practitioner] who knows of the existence of an advance health-  
23 care directive, a revocation of an advance health-care  
24 directive, a challenge to a determination of lack of capacity  
25 or a designation or disqualification of a surrogate shall

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1 promptly record its existence in the patient's health-care  
2 record and, if it is in writing, shall request a copy and, if  
3 one is furnished, shall arrange for its maintenance in the  
4 health-care record.

5 C. A supervising health-care [~~provider~~  
6 practitioner who makes or is informed of a determination that a  
7 patient lacks or has recovered capacity or that another  
8 condition exists that affects an individual instruction or the  
9 authority of an agent, guardian or surrogate shall promptly  
10 record the determination in the patient's health-care record  
11 and communicate the determination to the patient and to any  
12 person then authorized to make health-care decisions for the  
13 patient.

14 D. Except as provided in Subsections E and F of  
15 this section, a health-care [~~provider~~ practitioner or health-  
16 care institution providing care to a patient shall comply:

17 (1) before and after the patient is determined  
18 to lack capacity, with an individual instruction of the patient  
19 made while the patient had capacity;

20 (2) with a reasonable interpretation of [~~that~~  
21 the individual instruction made by a person then authorized to  
22 make health-care decisions for the patient; and

23 (3) with a health-care decision for the  
24 patient that is not contrary to an individual instruction of  
25 the patient and is made by a person then authorized to make

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1 health-care decisions for the patient, to the same extent as if  
2 the decision had been made by the patient while having  
3 capacity.

4 E. A health-care [~~provider~~] practitioner may  
5 decline to comply with an individual instruction or health-care  
6 decision for reasons of conscience. A health-care institution  
7 may decline to comply with an individual instruction or health-  
8 care decision if the instruction or decision is contrary to a  
9 policy of the health-care institution that is expressly based  
10 on reasons of conscience and if the policy was timely  
11 communicated to the patient or to a person then authorized to  
12 make health-care decisions for the patient.

13 F. A health-care [~~provider~~] practitioner or health-  
14 care institution may decline to comply with an individual  
15 instruction or health-care decision that requires medically  
16 ineffective health care or health care contrary to generally  
17 accepted health-care standards applicable to the health-care  
18 [~~provider~~] practitioner or health-care institution. "Medically  
19 ineffective health care" means treatment that would not offer  
20 the patient any significant benefit, as determined by a  
21 [~~physician~~] health-care practitioner.

22 G. A health-care [~~provider~~] practitioner or health-  
23 care institution that declines to comply with an individual  
24 instruction or health-care decision shall:

- 25 (1) promptly so inform the patient, if

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1 possible, and any person then authorized to make health-care  
2 decisions for the patient;

3 (2) provide continuing care to the patient  
4 until a transfer can be effected; and

5 (3) unless the patient or person then  
6 authorized to make health-care decisions for the patient  
7 refuses assistance, immediately make all reasonable efforts to  
8 assist in the transfer of the patient to another health-care  
9 [~~provider~~] practitioner or health-care institution that is  
10 willing to comply with the individual instruction or decision.

11 H. A health-care [~~provider~~] practitioner or health-  
12 care institution may not require or prohibit the execution or  
13 revocation of an advance health-care directive as a condition  
14 for providing health care.

15 I. The Uniform Health-Care Decisions Act does not  
16 require or permit a health-care institution or health-care  
17 [~~provider~~] practitioner to provide any type of health care for  
18 which the health-care institution or health-care [~~provider~~]  
19 practitioner is not licensed, certified or otherwise authorized  
20 or permitted by law to provide."

21 SECTION 8. Section 24-7A-11 NMSA 1978 (being Laws 1995,  
22 Chapter 182, Section 11, as amended) is amended to read:

23 "24-7A-11. CAPACITY.--

24 A. The Uniform Health-Care Decisions Act does not  
25 affect the right of an individual to make health-care decisions

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1 while having capacity to do so.

2 B. An individual is presumed to have capacity to  
3 make a health-care decision, to give or revoke an advance  
4 health-care directive and to designate a surrogate.

5 C. Unless otherwise specified in a written advance  
6 health-care directive, a determination that an individual lacks  
7 or has recovered capacity or that another condition exists that  
8 affects an individual instruction or the authority of an agent  
9 shall be made by two qualified health-care professionals, one  
10 of whom shall be the primary ~~[physician]~~ care practitioner. If  
11 the lack of capacity is determined to exist because of mental  
12 illness or developmental disability, one of the qualified  
13 health-care professionals shall be a person whose training and  
14 expertise aid in the assessment of functional impairment.

15 D. An individual shall not be determined to lack  
16 capacity solely on the basis that the individual chooses not to  
17 accept the treatment recommended by a health-care ~~[provider]~~  
18 practitioner.

19 E. An individual, at any time, may challenge a  
20 determination that the individual lacks capacity by a signed  
21 writing or by personally informing a health-care ~~[provider]~~  
22 practitioner of the challenge. A health-care ~~[provider]~~  
23 practitioner who is informed by the individual of a challenge  
24 shall promptly communicate the fact of the challenge to the  
25 supervising health-care ~~[provider]~~ practitioner and to any

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1 health-care institution at which the individual is receiving  
2 care. Such a challenge shall prevail unless otherwise ordered  
3 by the court in a proceeding brought pursuant to the provisions  
4 of Section 24-7A-14 NMSA 1978.

5 F. A determination of lack of capacity under the  
6 Uniform Health-Care Decisions Act shall not be evidence of  
7 incapacity under the provisions of Article 5 of the Uniform  
8 Probate Code."

9 SECTION 9. Section 24-8-4 NMSA 1978 (being Laws 1973,  
10 Chapter 107, Section 4) is amended to read:

11 "24-8-4. PROHIBITION AGAINST INTERFERENCE WITH MEDICAL  
12 JUDGMENT OF ~~[PHYSICIANS]~~ CERTAIN HEALTH CARE PROFESSIONALS.--  
13 The Family Planning Act does not prohibit or inhibit any person  
14 from refusing to provide any family planning service on the  
15 grounds that there are valid medical reasons for the refusal  
16 and that those reasons are based upon the judgment of a  
17 physician or a physician assistant, advanced practice  
18 registered nurse or certified nurse-midwife working within that  
19 person's scope of practice given in the specific case of the  
20 person for whom services are refused."

21 SECTION 10. Section 24-8-5 NMSA 1978 (being Laws 1973,  
22 Chapter 107, Section 5) is amended to read:

23 "24-8-5. PROHIBITION AGAINST IMPOSITION OF STANDARDS AND  
24 REQUIREMENTS AS PREREQUISITES FOR RECEIPT OF REQUESTED FAMILY  
25 PLANNING SERVICES.--Neither the state, its local governmental

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1 units nor any health facility furnishing family planning  
2 services shall subject any person to any standard or  
3 requirement as a prerequisite to the receipt of any requested  
4 family planning service except for:

5 A. a requirement of referral to a physician or a  
6 physician assistant, advanced practice registered nurse or  
7 certified nurse-midwife working within that person's scope of  
8 practice when the requested family planning service is  
9 something other than information about family planning or  
10 nonprescription items;

11 B. any requirement imposed by law or regulation as  
12 a prerequisite to the receipt of a family planning service; or

13 C. payment for the service when payment is required  
14 in the ordinary course of providing the particular service to  
15 the person involved."

16 SECTION 11. Section 24-10C-6 NMSA 1978 (being Laws 1999,  
17 Chapter 94, Section 6, as amended) is amended to read:

18 "24-10C-6. EXEMPTION.--Nothing in the Cardiac Arrest  
19 Response Act precludes a physician or a physician assistant,  
20 advanced practice registered nurse or certified nurse-midwife  
21 working within that person's scope of practice from prescribing  
22 an automated external defibrillator to a patient for use by the  
23 patient's caregiver on an individual patient, and the use does  
24 not require the individual to function in an approved program."

25 SECTION 12. Section 32A-6A-12 NMSA 1978 (being Laws 2007,  
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1 Chapter 162, Section 12) is amended to read:

2 "32A-6A-12. PERSONAL RIGHTS OF A CHILD IN AN OUT-OF-HOME  
3 TREATMENT OR HABILITATION PROGRAM--SCOPE.--

4 A. A child in an out-of-home treatment or  
5 habilitation program shall have, in addition to other rights  
6 set forth in the Children's Mental Health and Developmental  
7 Disabilities Act, the right to:

8 (1) be placed in a manner consistent with the  
9 least restrictive means principle;

10 (2) have access to the state's designated  
11 protection and advocacy system and access to an attorney of the  
12 child's choice, provided that the child is not entitled to  
13 appointment of an attorney at public expense, except as  
14 otherwise provided in Subsection C of Section [~~13 of the~~  
15 ~~Children's Mental Health and Developmental Disabilities Act~~]  
16 32A-6A-13 NMSA 1978;

17 (3) receive visitors of the child's own  
18 choosing on a daily basis, subject to restrictions imposed in  
19 the best interests of the child by the child's clinician for  
20 good cause. Hours during which visitors may be received shall  
21 be limited only in the interest of effective treatment and the  
22 reasonable efficiency of the program and shall be sufficiently  
23 flexible to accommodate the individual needs of the child and  
24 the child's visitors. Notwithstanding the provisions of this  
25 subsection, each child has the right to receive visits from the

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1 child's attorney; physician; physician assistant, advanced  
2 practice registered nurse or certified nurse-midwife working  
3 within that person's scope of practice; psychologist; clergy;  
4 guardian ad litem; or representatives from the state's  
5 protection and advocacy system or children, youth and families  
6 department in private at any reasonable time, irrespective of  
7 visiting hours, provided the visitor shows reasonable cause for  
8 visiting at times other than normal visiting hours;

9 (4) have writing materials and postage stamps  
10 reasonably available for the child's use in writing letters and  
11 other communications. Reasonable assistance shall be provided  
12 for writing, addressing and posting letters and other documents  
13 upon request. The child has the right to send and receive  
14 sealed and uncensored mail. The child has the right to  
15 reasonable private access to telephones, and, in cases of  
16 personal emergencies when other means of communication are not  
17 satisfactory, the child shall be afforded reasonable use of  
18 long distance calls; provided that for other than mail or  
19 telephone calls to a court; an attorney; a physician; a  
20 physician assistant, advanced practice registered nurse or  
21 certified nurse-midwife working within that person's scope of  
22 practice; a psychologist; [~~a~~] clergy; a guardian ad litem; a  
23 representative from the state's protection and advocacy system;  
24 or a social worker, mailing or telephone privileges may be  
25 restricted by the child's clinician for good cause shown. A

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1 child who is indigent shall be furnished writing, postage and  
2 telephone facilities without charge;

3 (5) reasonable access to a legal custodian and  
4 a family member through visitation, videoconferencing,  
5 telephone access and opportunity to send and receive mail. In-  
6 person visitation is preferred, and reasonable efforts shall be  
7 made to facilitate such visitation unless the child and family  
8 choose otherwise. Access by legal custodians and family  
9 members to the child shall be limited only in the interest of  
10 effective treatment and the reasonable efficiency of the  
11 program and shall be sufficiently flexible to accommodate the  
12 individual needs of legal custodians and family members.  
13 Treatment needs that justify limitation on the access rights of  
14 a legal custodian or family member must be specifically  
15 documented by the clinician in the child's record, and any such  
16 limitation automatically expires in seven days;

17 (6) follow or abstain from the practice of  
18 religion. The program shall provide appropriate assistance in  
19 this connection, including reasonable accommodations for  
20 religious worship and transportation to nearby religious  
21 services. A child who does not wish to participate in  
22 religious practice shall be free from pressure to do so or to  
23 accept religious beliefs;

24 (7) a humane psychological and physical  
25 environment. The child shall be provided a comfortable bed and

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1 adequate changes of linen and reasonable secure storage space  
2 for personal possessions. Except when curtailed for reasons of  
3 safety or therapy as documented in the child's record by the  
4 child's physician, the child shall be afforded reasonable  
5 privacy in sleeping and personal hygiene practices;

6 (8) reasonable daily opportunities for  
7 physical exercise and outdoor exercise and reasonable access to  
8 recreational areas and equipment, including equipment adapted  
9 to the child's developmental and physical needs;

10 (9) a nourishing, well-balanced, varied and  
11 appetizing diet;

12 (10) prompt and adequate medical attention for  
13 a physical ailment. Each child shall receive a complete  
14 physical examination upon admission, except when documentation  
15 is provided that the child has had such examination within the  
16 six months immediately prior to the current admission. Each  
17 child shall receive a complete physical examination every  
18 twelve months thereafter;

19 (11) a clean, safe and comfortable environment  
20 in a structure that complies with applicable fire and safety  
21 requirements;

22 (12) appropriate medication and freedom from  
23 unnecessary or excessive medication. Medication shall not be  
24 used as discipline, as a substitute for programs, for the  
25 convenience of staff or in quantities that interfere with the

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1 child's treatment or habilitation program. No medication shall  
2 be administered unless by written order of a clinician licensed  
3 to prescribe medication or by an oral order noted immediately  
4 in the patient's medical record and signed by that clinician  
5 within twenty-four hours. All prescriptions for psychotropic  
6 medications must be reviewed at least every thirty days.  
7 Notation of each child's medication shall be kept in the  
8 child's medical records and shall include a notation by the  
9 clinician licensed to prescribe medication of the behavioral or  
10 symptomatic baseline data upon which the medication order was  
11 made; and

12 (13) a free public education. The child shall  
13 be educated in regular classes with nondisabled children  
14 whenever appropriate. In no event shall a child be allowed to  
15 remain in an out-of-home treatment or habilitation program for  
16 more than ten days without receiving educational services. If  
17 the child's placement in an out-of-home treatment or  
18 habilitation program is required by an individualized education  
19 plan that conforms to the requirements of state and federal  
20 law, the sending school is responsible for the provision of  
21 education to the child. In all other situations, the local  
22 school district in which the out-of-home treatment or  
23 habilitation program is located is responsible for the  
24 provision of educational services to the child. Nothing in  
25 this subsection shall limit a child's right to public education

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1 under state, tribal or federal law.

2 B. A child receiving services in an out-of-home  
3 treatment or habilitation program, including but not limited to  
4 residential treatment or habilitation programs, shall be  
5 provided notice of rights immediately upon admission to such  
6 program."

7 SECTION 13. Section 33-2-13 NMSA 1978 (being Laws 1889,  
8 Chapter 76, Section 44, as amended) is amended to read:

9 "33-2-13. PHYSICIAN, PHYSICIAN ASSISTANT, ADVANCED  
10 PRACTICE REGISTERED NURSE OR CERTIFIED NURSE-MIDWIFE WORKING  
11 WITHIN THAT PERSON'S SCOPE OF PRACTICE--RULES--PRISONER'S  
12 DISABILITY--RECORDS.--~~[Sec. 8. The]~~ A physician or a physician  
13 assistant, advanced practice registered nurse or certified  
14 nurse-midwife working within that person's scope of practice,  
15 when visiting the penitentiary of New Mexico, shall conform to  
16 [the] its rules and regulations. [thereof. He] The physician  
17 or the physician assistant, advanced practice registered nurse  
18 or certified nurse-midwife working within that person's scope  
19 of practice shall express no opinion as to the disability of  
20 any prisoner except in [his record which he shall keep] records  
21 kept in the penitentiary."

22 SECTION 14. Section 52-1-55 NMSA 1978 (being Laws 1929,  
23 Chapter 113, Section 23, as amended) is amended to read:

24 "52-1-55. PHYSICAL EXAMINATIONS--STATEMENTS REGARDING  
25 DEPENDENTS--PRE-EMPLOYMENT PHYSICAL CONDITION STATEMENTS.--

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1           A. It is the duty of the worker at the time of  
2     ~~[his]~~ the worker's employment or thereafter at the request of  
3     the employer to submit ~~[himself]~~ to examination by a physician  
4     or surgeon duly authorized to practice medicine in the state,  
5     or by a physician assistant, advanced practice registered nurse  
6     or certified nurse-midwife working within that person's scope  
7     of practice, who shall be paid by the employer, for the purpose  
8     of determining ~~[his]~~ the worker's physical condition.

9           B. It is also the duty of the worker, if required,  
10    to give the names, addresses, relationship and degree of  
11    dependency of ~~[his]~~ the worker's dependents, if any, or any  
12    subsequent change thereof to the employer, and when the  
13    employer or ~~[his]~~ the employer's insurance carrier requires,  
14    the worker shall make a detailed verified statement relating to  
15    such dependents, matters of employment and other information  
16    incident thereto.

17           C. It is also the duty of the worker, if requested  
18    by the employer or ~~[his]~~ the employer's insurance carrier, to  
19    make a detailed verified statement as part of an application  
20    for employment disclosing specifically any ~~[pre-existing]~~  
21    preexisting permanent physical impairment ~~[as that term is~~  
22    ~~defined in Section 52-2-6 NMSA 1978]."~~

23           SECTION 15. Section 66-3-16 NMSA 1978 (being Laws 1978,  
24    Chapter 35, Section 36, as amended) is amended to read:

25           "66-3-16. DISTINCTIVE REGISTRATION PLATES--PERSONS WITH  
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1       SIGNIFICANT MOBILITY LIMITATION--PARKING PLACARD.--

2               A. The division shall issue distinctive  
3 registration plates for use on motor vehicles and motorcycles  
4 owned by a person with a significant mobility limitation who  
5 requests a distinctive registration plate and who proves  
6 satisfactorily to the division that the person meets the  
7 standard provided in Subsection J of this section. No fee in  
8 addition to the regular registration fee, if any, applicable to  
9 the motor vehicle or motorcycle shall be collected for issuance  
10 of distinctive registration plates pursuant to this section.

11              B. No person shall falsely claim to have a  
12 significant mobility limitation so as to be eligible to be  
13 issued a distinctive registration plate or a parking placard  
14 pursuant to this section when the person does not in fact have  
15 a significant mobility limitation. Upon notice and opportunity  
16 to be heard, the division may revoke and demand return of any  
17 placard when:

- 18                               (1) it was issued in error or with false
- 19 information;
- 20                               (2) the person receiving the placard is no
- 21 longer eligible; or
- 22                               (3) the placard is being used by ineligible
- 23 persons.

24              C. Upon written application to the division  
25 accompanied by a medical statement by a licensed physician or a

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1 physician assistant, advanced practice registered nurse or  
2 certified nurse-midwife working within that person's scope of  
3 practice attesting to the permanent significant mobility  
4 limitation, a resident of the state who has a significant  
5 mobility limitation, as provided in this section, may apply for  
6 and be issued no more than two parking placards for display  
7 upon a motor vehicle registered to the person or motor vehicle  
8 owned by another person who is transporting the person with a  
9 significant mobility limitation. The physician or the  
10 physician assistant, advanced practice registered nurse or  
11 certified nurse-midwife working within that person's scope of  
12 practice shall provide the division all information and records  
13 necessary to issue a permanent parking placard. Once approved  
14 for use of a permanent parking placard, a person with a  
15 significant mobility limitation shall not be required to  
16 furnish further medical information.

17 D. A parking placard issued pursuant to this  
18 section shall expire four years from the date it was issued.

19 E. The division shall issue two-sided hanger-style  
20 parking placards with the following characteristics:

- 21 (1) a picture of the international symbol of  
22 access;
- 23 (2) a hologram to make duplication difficult;
- 24 (3) an imprinted expiration date; and
- 25 (4) a full-face photograph of the holder on

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1 the inside of the placard covered by a flap.

2 F. The division shall consult with the governor's  
3 commission on disability for continued issuance and format of  
4 the placard.

5 G. The division may issue an identification card  
6 containing a full-face photograph of the holder of the  
7 registration plate or parking placard and the number of the  
8 registration plate or parking placard issued to that person.

9 H. Upon written application to the division  
10 accompanied by a medical statement from a licensed physician or  
11 a physician assistant, advanced practice registered nurse or  
12 certified nurse-midwife working within that person's scope of  
13 practice attesting to a temporary significant mobility  
14 limitation, a person may be issued a temporary placard for no  
15 more than one year. The physician or the physician assistant,  
16 advanced practice registered nurse or certified nurse-midwife  
17 working within that person's scope of practice shall provide  
18 the division all information and records necessary to issue a  
19 temporary placard.

20 I. Registration plates or parking placards issued  
21 to a person with a significant mobility limitation by another  
22 state or foreign jurisdiction shall be honored until the motor  
23 vehicle or motorcycle is registered or the parking placard  
24 holder establishes residency in this state.

25 J. A "person with a significant mobility

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1 limitation" means a person who:

2 (1) cannot walk one hundred feet without  
3 stopping to rest;

4 (2) cannot walk without the use of a brace,  
5 cane or crutch or without assistance from another person, a  
6 prosthetic device, a wheelchair or other assistive device;

7 (3) is restricted by lung disease to such an  
8 extent that the person's forced respiratory volume, when  
9 exhaling for one second, when measured by spirometry, is less  
10 than one liter or the arterial oxygen tension is less than  
11 sixty millimeters on room air at rest;

12 (4) uses portable oxygen;

13 (5) has a severe cardiac condition; or

14 (6) is so severely limited in the ability to  
15 walk due to an arthritic, neurologic or orthopedic condition  
16 that the person cannot ascend or descend more than ten stair  
17 steps."

18 SECTION 16. TEMPORARY PROVISION--DIRECTING STATE AGENCIES  
19 AND POLITICAL SUBDIVISIONS TO UPDATE RULES REQUIRING AN  
20 EXAMINATION BY, OR CERTIFICATE OR STATEMENT OF, A LICENSED  
21 PHYSICIAN TO INCLUDE ADVANCED PRACTICE REGISTERED NURSE,  
22 CERTIFIED NURSE-MIDWIFE OR PHYSICIAN ASSISTANT WORKING WITHIN  
23 THAT PERSON'S SCOPE OF PRACTICE.--

24 A. By January 1, 2016, every cabinet secretary,  
25 agency head and head of a political subdivision of the state

.198344.2

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

1 shall update rules requiring an examination by, a certificate  
2 from or a statement of a licensed physician to also accept such  
3 examination, certificate or statement from an advanced practice  
4 registered nurse, certified nurse-midwife or physician  
5 assistant working within that person's scope of practice.

6 B. Every cabinet secretary, agency head and head of  
7 a political subdivision of the state shall submit proposed  
8 updated rules to the New Mexico medical board and to the board  
9 of nursing for a determination regarding which person among an  
10 advanced practice registered nurse, certified nurse-midwife or  
11 physician assistant working within that person's scope of  
12 practice may perform the function previously required of a  
13 licensed physician in the rules of the agency or political  
14 subdivision.

15 C. The New Mexico medical board and the board of  
16 nursing shall promptly review the proposed rules and confirm to  
17 the requestor which person among an advanced practice  
18 registered nurse, certified nurse-midwife or physician  
19 assistant working within that person's scope of practice may  
20 perform the function previously required of a licensed  
21 physician in the rules of the agency or political subdivision.