

New Mexico Legislature Acts to Protect Patients' Access to Care in Texas

Texas doctors and hospitals will continue to receive a full range of liability protections even when treating New Mexico patients. That issue was in doubt until the New Mexico Legislature took decisive action February 17.

The legislation preserves vital access to Texas physicians and hospitals for residents of Eastern New Mexico who routinely cross the state line for care.

“Clearly, the New Mexico legislature recognized that access to health care is a public policy priority. Without legislation, thousands of patients would lose ready access to primary and specialized care, said Dr. Marcus,” chairman of Texas Alliance for Patient Access.



New Mexico Governor Susana Martinez signed HB 270, the Out-of-State Provider Access bill, into law March 3.

The medical liability laws of the state in which care was delivered now will govern cases involving New Mexicans seeking medical care across state lines, provided that the patient signs a written consent before receiving treatment. Both the House and Senate passed the bill unanimously. Governor Susana Martinez signed the measure into law March 3.

The new law forbids New Mexico courts from accepting lawsuits for care rendered out-of-state, if the patient has consented to choice of law and jurisdiction. This law, HB 270, applies to out-of-state physicians, physician groups, health care providers, hospitals, outpatient facilities and their employees.

New Mexico Patient Referrals to Texas Medical Centers



Lawmakers deemed the bill necessary to protect access to medical care for the residents of Eastern and Southern New Mexico. Thirty-two of New Mexico’s counties are, entirely or in part, designated as health care provider shortage areas. The shortage is especially acute in 13 counties on or near the Texas border. Residents of these New Mexico border counties have long-relied on Texas doctors and hospitals for a full range of sophisticated medical care.

Among those pleased with the new law is

Lovington resident Sammy Murphy. Suffering from renal failure and a host of other maladies, Murphy was transported by ambulance from Lovington to Lubbock for intensive care.

“The doctors and nurses at Covenant gave me a fighting chance and for that I am eternally grateful,” he said. “Lots of people I know here in Lovington, rely on the availability of medical care in Lubbock. I like our local hospital but Lubbock is our lifeline,” Murphy said.

In recent months, Texas doctors and hospitals have expressed a reluctance to treat visiting New Mexico patients. That followed a New Mexico court ruling that questioned where and under whose state laws a suit can be filed if an alleged medical mishap occurs. That case, *Montano v. Frezza*, is pending before the New Mexico Supreme Court.

For Texas doctors, this meant accepting increased liability risk and costs when treating New Mexico patients. Consequently, many Texas doctors and hospitals were reconsidering their willingness to accept the transfer or referral of a New Mexico patient for elective care.

An earlier version of HB 270 passed the House but was defeated in committee in the Senate. With only a few days remaining in the legislative session, scores of lawmakers and hundreds of their constituents urged that the Senate find a fix to the access to care problem. Senate Majority Leader Michael Sanchez, urged the New Mexico doctors and hospitals and the state’s trial lawyers to meet and agree on compromise language. Ultimately, retired University of New Mexico School of Law Professor Ted Occhialano crafted language on which both parties could agree. The key point is that a New Mexico patient must be informed of his or her rights before treatment, and that the patient must agree in writing that any legal remedy would be in Texas; and that any suit must be filed in Texas.

“This legislation makes clear that New Mexico public policy favors enforcing contractual agreements. It also recognizes the validity of Texas doctors and hospitals to enter into contractual agreements with their visiting patients from New Mexico, said Randy Marshall, Executive Director of the New Mexico Medical Society. “HB 270 addresses the coverage concerns of Texas physicians. Plus, it enables New Mexico patients to continue to receive specialized care that may be more accessible in a neighboring state,” he said.

The Eastern New Mexico counties of De Baca, Guadalupe, Harding, Quay, Roosevelt and Union have no cardiologist, no neurologist, no plastic surgeon, no orthopedic surgeon, no radiologist, and no ear, nose and throat doctor, according to the American Medical Association. Of those counties, only Roosevelt County has an oncologist.

Recent data from the New Mexico and Texas Departments of Health show that **13 counties in southern and eastern New Mexico send more than 22 percent of their hospitalized patients to Texas for care.**

New Mexico Referral Cities to West Texas Border County Hospitals

