

New Mexico Protects Patients' Access to Care in Texas



New Mexico Gov. Susana Martinez on March 3, 2016, signed into law New Mexico' House Bill 270, the out-of-state provider access bill. New Mexico lawmakers crafted this legislative solution to protect access to medical care for the residents of eastern and southern New Mexico. The bill goes into effect July 1, 2016.

To benefit from the statute, Texas physicians must have in their agreement with the patient a “choice of law and forum” provision. If the agreement with the patient doesn't contain such a provision, HB 270 will not apply.

Below are two versions of a proposed consent: one addressing voluntary care and the other, emergency care.

As a protective measure, physicians might find it advantageous to offer a consent whenever treating any out-of-state patient. TMA encourages physicians to consult with their respective counsel in deciding to implement the consent forms. Although HB 270 doesn't take effect until July 1, that does not mean a court would not uphold such a contract.

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DRAFT CHOICE OF LAW AND FORUM CLAUSE



NONEMERGENCY

AGREEMENT AS TO GOVERNING LAW AND FORUM

The patient, including patient's representative and heirs or beneficiaries, and the health care provider, including employees and agents of the health care provider, rendering or providing medical care, health care, or safety or professional or administrative services directly related to health care to patient agree:

1. That all health care rendered shall be governed exclusively and only by Texas law, and in no event shall the law of any other state apply to any health care rendered to patient; and
2. In the event of a dispute, any lawsuit, action, or cause of which in any way relates to health care provided to the patient shall be brought only in a Texas court in the county/district where all or substantially all of the health care was provided or rendered, and in no event will any lawsuit, action, or cause of action ever be brought in any other state. The choice of law and forum selection provisions of this paragraph are mandatory and are not permissive.

Signature of Patient

Date

NO ES DE EMERGENCIA

ACUERDO CON RESPETO A LA LEY APLICABLE Y FORO:

El paciente, incluyendo el representante del paciente, y herederos o beneficiarios, y el proveedor de cuidado de la salud, incluyendo a los empleados y agentes del proveedor de atención médica, la prestación o la prestación de asistencia médica, cuidados de la salud, o servicios de seguridad o profesionales o administrativos directamente relacionados con la atención sanitaria a los pacientes de acuerdo de:

1. Que todo cuidado de la salud se registrarán exclusivamente y sólo por la Ley de Texas y en ningún caso la ley de cualquier otro estado aplicará a cualquier cuidado de la salud prestada al paciente; y
2. En el caso de una disputa, cualquier demanda, acción o causa que de alguna manera se relaciona con el cuidado de la salud proporcionado al paciente sólo será llevada en un tribunal de Texas en el condado / distrito donde todo o sustancialmente todo cuidado de la salud fue prestada o proporcionada y en ningún caso cualquier demanda, acción o causa de acción nunca será llevada en cualquier otro estado. La elección de las disposiciones legales y selección de foro de este párrafo son obligatorios y no son permisivas.

Signature of Patient

Date

DRAFT CHOICE OF LAW AND FORUM CLAUSE



EMERGENCY ROOM

The execution of this Agreement as to Governing Law and Forum is not directly or indirectly a condition or requirement to the provision of emergency medical care to the patient. Regardless of whether the patient executes this Agreement as to Governing Law and Forum, there will be no limit or restriction to amount, kind, or quality of the medical examination, medical screening, and medical care that the patient receives in an emergency setting.

AGREEMENT AS TO GOVERNING LAW AND FORUM

The patient, including patient’s representative and heirs or beneficiaries, and the health care provider, including employees and agents of the health care provider, rendering or providing medical care, health care, or safety or professional or administrative services directly related to health care to the patient agree:

1. That all health care rendered shall be governed exclusively and only by Texas Law and in no event shall the law of any other state apply to any health care rendered to patient; and
2. In the event of a dispute, any lawsuit, action, or cause of which in any way relates to health care provided to the patient shall only be brought in a Texas Court in the county/district where all or substantially all of the health care was provided or rendered and in no event will any lawsuit, action, or cause of action ever be brought in any other state. The choice of law and forum selection provisions of this paragraph are mandatory and are not permissive.

Signature of Patient

Date

SALA DE EMERGENCIAS

La ejecución de este Acuerdo en cuanto a la Ley Aplicable y Foro no es directamente o indirectamente, una condición o requisito para la atención médica de emergencia para el paciente. Independientemente si el paciente ejecuta este Acuerdo a la Ley Aplicable y Foro no habrá ningún límite o restricción a la cantidad, tipo o la calidad del examen médico, examen médico y la atención médica, que recibe el paciente en situaciones de emergencia.

ACUERDO CON RESPETO A LA LEY APLICABLE Y FORO:

El paciente, incluyendo el representante del paciente, y herederos o beneficiarios, y el proveedor de cuidado de la salud, incluyendo a los empleados y agentes del proveedor de atención médica, la prestación o la prestación de asistencia médica, cuidados de la salud, o servicios de seguridad o profesionales o administrativos directamente relacionados con la atención sanitaria a el paciente de acuerdo a:

1. Que todo cuidado de la salud se registrarán exclusivamente y sólo por la Ley de Texas y en ningún caso la ley de cualquier otro estado aplicará a cualquier cuidado de la salud prestada al paciente; y
2. En el caso de una disputa, cualquier demanda, acción o causa que de alguna manera se relaciona con el cuidado de la salud proporcionado al paciente sólo será llevada en un tribunal de Texas en el condado / distrito donde todo o sustancialmente todo cuidado de la salud fue prestada o proporcionada y en ningún caso cualquier demanda, acción o causa de acción nunca será llevada en cualquier otro estado. La elección de las disposiciones legales y selección de foro de este párrafo son obligatorios y no son permisivas.

Signature of Patient

Date