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SENATE BILL 77

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY
Ramsay L. Gorham

AN ACT

RELATING TO HEALTH; PERMITTING HOME HEALTH CARE AND HOSPICE
CARE SERVICES UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTION
61-6-6 NMSA 1978 (BEING LAWS 1973, CHAPTER 361, SECTION 1, AS
AMENDED).

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

Section 1. Section 61-6-6 NMSA 1978 (being Laws 1973,
Chapter 361, Section 1, as amended) is amended to read:

"61-6-6. DEFINITIONS.--As used in Chapter 61, Article 6
NMSA 1978:

A. "acting in good faith" means acting without
malice as the primary motive or without knowledge or belief
that one is in error in taking a particular action;

B. "board" means the New Mexico board of medical
examiners;

C. "licensed physician" means a medical doctor

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1 licensed under the Medical Practice Act to practice medicine
2 in New Mexico;

3 D. "medical college or school in good standing"
4 means a board-approved medical college or school that has as
5 high a standard as that required by the association of
6 American medical colleges and the council on medical
7 education of the American medical association;

8 E. "medical student" means a student enrolled in a
9 board-approved medical college or school in good standing;

10 F. "person" means an individual or any legal
11 entity of any kind whatever;

12 G. "physician assistant" means a skilled person
13 licensed by the board as being qualified by academic and
14 practical training to provide patient services under the
15 supervision and direction of the licensed physician who is
16 responsible for the performance of that assistant;

17 H. "postgraduate year one" or "intern" means a
18 first year postgraduate student upon whom a degree of doctor
19 of medicine and surgery or equivalent degree has been
20 conferred by a medical college or school in good standing;

21 I. "postgraduate year two through eight" or
22 "resident" means a graduate of a medical college or school in
23 good standing who is in training in a board-approved and
24 accredited residency training program in a hospital or
25 facility affiliated with an approved hospital and who has
been appointed to the position of "resident" or "assistant
resident" for the purpose of postgraduate medical training:

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J. "the practice of medicine":

(1) consists of:

[+1>] (a) advertising, holding out to the public or representing in any manner that one is authorized to practice medicine in this state;

[+2>] (b) offering or undertaking to administer, dispense or prescribe any drug or medicine for the use of any other person, except as authorized pursuant to a professional or occupational licensing statute set forth in Chapter 61 NMSA 1978;

[+3>] (c) offering or undertaking to give or administer, dispense or prescribe any drug or medicine for the use of any other person, except as directed by a licensed physician;

[+4>] (d) offering or undertaking to perform any operation or procedure upon any person;

[+5>] (e) offering or undertaking to diagnose, correct or treat in any manner or by any means, methods, devices or instrumentalities any disease, illness, pain, wound, fracture, infirmity, deformity, defect or abnormal physical or mental condition of any person;

[+6>] (f) offering medical peer review, utilization review or diagnostic service of any kind that directly influences patient care, except as authorized pursuant to a professional or occupational licensing statute set forth in Chapter 61 NMSA 1978; or

[+7>] (g) acting as the representative or

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1 agent of any person in doing any of the things listed in
2 [~~Paragraphs (1) through (6) of this subsection~~] Subparagraphs
3 (a) through (f) of this paragraph; and

4 (2) does not include written orders for home
5 health care or hospice care services provided in New Mexico
6 by a nurse licensed under Chapter 61, Article 3 NMSA 1978
7 when the orders are written by a medical doctor licensed
8 under the laws of a state contiguous to New Mexico;

9 K. "sexual contact" means touching the primary
10 genital area, groin, anus, buttocks or breast of a patient or
11 allowing a patient to touch another's primary genital area,
12 groin, anus, buttocks or breast in a manner that is commonly
13 recognized as outside the scope of acceptable medical
14 practice;

15 L. "sexual penetration" means sexual intercourse,
16 cunnilingus, fellatio or anal intercourse, whether or not
17 there is any emission, or introducing any object into the
18 genital or anal openings of another in a manner that is
19 commonly recognized as outside the scope of acceptable
20 medical practice; and

21 M. "United States" means the fifty states, its
22 territories and possessions and the District of Columbia."