

1 SENATE BILL 222

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 William P. Soules

5  
6  
7  
8  
9  
10 AN ACT

11 RELATING TO PROFESSIONAL LICENSURE; AMENDING AND ENACTING  
12 SECTIONS OF THE NURSING PRACTICE ACT; PROVIDING FOR TRANSITION  
13 OF BOARD COMPOSITION.

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 61-3-6 NMSA 1978 (being Laws 1973,  
17 Chapter 149, Section 2, as amended) is amended to read:

18 "61-3-6. ADMINISTRATION OF ANESTHETICS.--

19 A. It is unlawful for any person, other than a  
20 person licensed in New Mexico to practice medicine, osteopathy  
21 or dentistry or a currently licensed certified registered nurse  
22 anesthetist, to administer anesthetics to any person. Nothing  
23 in this section prohibits a person currently licensed pursuant  
24 to the Nursing Practice Act from:

25 (1) using hypnosis; [~~or from~~]

.211683.4

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1                   (2) administering local anesthetics or  
2 moderate sedation; or

3                   (3) administering procedural sedation when  
4 necessary and when the nurse:

5                               (a) has received and possesses  
6 specialized nursing knowledge, judgment, skill and current  
7 clinical competence to manage the nursing care of the patient  
8 receiving procedural sedation;

9                               (b) is currently trained with  
10 demonstrated proficiency in an accredited body of knowledge on  
11 airway management and advanced cardiac life support for adults,  
12 pediatric patients or neonates that is appropriate to the  
13 population being treated;

14                              (c) has no other responsibilities during  
15 or after the procedure that would compromise the nurse's  
16 ability to adequately monitor the patient during procedural  
17 sedation or analgesia; and

18                              (d) ensures that a qualified airway  
19 specialist is readily available during and after the procedure  
20 for respiratory emergencies and who is not the person  
21 performing the procedure. A qualified airway specialist is  
22 trained in and maintains a current competency in endotracheal  
23 intubation for the specific population being treated, including  
24 a certified registered nurse anesthetist, an anesthesiologist,  
25 an emergency physician, a paramedic, a respiratory therapist or

.211683.4

underscored material = new  
[bracketed material] = delete

1 a registered nurse.

2 B. A nurse shall not administer moderate or  
3 procedural sedation if the nurse assesses the administration of  
4 sedatives or other medication and determines that it would be  
5 unsafe under the circumstances."

6 SECTION 2. Section 61-3-8 NMSA 1978 (being Laws 1968,  
7 Chapter 44, Section 5, as amended by Laws 1991, Chapter 189,  
8 Section 3 and also by Laws 1991, Chapter 190, Section 5) is  
9 amended to read:

10 "61-3-8. BOARD CREATED--MEMBERS--QUALIFICATIONS--TERMS--  
11 VACANCIES--REMOVAL.--

12 A. There is created a seven-member "board of  
13 nursing". The board shall consist of [~~four~~]:

14 (1) five licensed nurses, including:

15 (a) one nurse who preferably has  
16 knowledge of the educational preparation of pre-licensure  
17 students;

18 (b) one nurse who is knowledgeable  
19 regarding advanced practice nursing; and

20 (c) one nurse who is preferably a  
21 licensed practical nurse; and

22 [~~three~~] (2) two members who shall represent  
23 the public and shall not:

24 (a) have been licensed as registered or  
25 licensed practical nurses [~~nor shall the public members~~];

.211683.4

underscored material = new  
[bracketed material] = delete

1                   (b) have any significant financial  
2 interest, direct or indirect, in the nursing profession  
3 [~~regulated~~]; and

4                   (c) hold an active license in another  
5 health care profession.

6           B. Not more than two board members shall be  
7 appointed from any one county, and not more than two registered  
8 nurse members shall be from any one field of nursing.

9           C. Members of the board shall be appointed by the  
10 governor for staggered terms of [~~four~~] three years each.

11           D. Nurse members shall be appointed from lists  
12 submitted to the governor by any generally recognized  
13 organization of nurses in this state.

14           E. Appointments shall be made [~~in such manner~~] so  
15 that the terms of no more than [~~two~~] three board members expire  
16 on July 1 of each year. Vacancies shall be filled by  
17 appointment by the governor for the unexpired term within sixty  
18 days of the vacancy. Board members shall serve until their  
19 successors have been appointed and qualified.

20           [~~B-~~] F. Members of the board shall be citizens of  
21 the United States and residents of this state. Registered  
22 nurse members shall be licensed in this state, shall have had,  
23 since graduation, at least five years' experience in nursing,  
24 shall be currently engaged in professional nursing and shall  
25 have been actively engaged in professional nursing for at least

.211683.4

underscored material = new  
[bracketed material] = delete

1 three years immediately preceding appointment or reappointment.  
2 The licensed practical nurse member shall be licensed in this  
3 state, shall have been graduated from an approved licensed  
4 practical nursing education program, shall have been licensed  
5 by examination, shall have had at least five years' experience  
6 since graduation, shall be currently engaged in licensed  
7 practical nursing and shall have been actively engaged in  
8 licensed practical nursing for at least three years immediately  
9 preceding appointment or reappointment.

10 ~~[G.]~~ G. No board member shall serve more than two  
11 full or partial terms, consecutive or otherwise.

12 ~~[D.]~~ H. Any board member failing to attend seventy  
13 percent of meeting days annually, either regular or special,  
14 shall automatically be removed as a member of the board.

15 ~~[E.]~~ I. The governor may remove any member from the  
16 board for neglect of any duty required by law, for incompetency  
17 or for unprofessional or dishonorable conduct, in accordance  
18 with regulations prescribed by the board.

19 ~~[F.]~~ J. In the event of a vacancy on the board for  
20 any reason, the secretary of the board shall immediately notify  
21 the governor, the board members and any generally recognized  
22 nursing organization of the vacancy, the reason for its  
23 occurrence and the action taken by the board, so as to expedite  
24 the appointment of a new board member."

25 **SECTION 3.** Section 61-3-10 NMSA 1978 (being Laws 1968,

.211683.4

underscored material = new  
[bracketed material] = delete

1 Chapter 44, Section 7, as amended by Laws 2003, Chapter 276,  
2 Section 4 and by Laws 2003, Chapter 307, Section 7) is amended  
3 to read:

4 "61-3-10. POWERS--DUTIES.--The board:

5 A. shall adopt and revise [~~such~~] rules [~~and~~  
6 ~~regulations~~] as may be necessary to enable it to carry into  
7 effect the provisions of the Nursing Practice Act and to  
8 maintain high standards of practice;

9 B. shall prescribe standards and approve curricula  
10 for educational programs preparing persons for licensure under  
11 the Nursing Practice Act;

12 C. shall provide for surveys of educational  
13 programs preparing persons for licensure under the Nursing  
14 Practice Act;

15 D. shall grant, deny or withdraw approval from  
16 educational programs for failure to meet prescribed standards,  
17 if a majority of the board concurs in the decision;

18 E. shall provide for the examination, licensing and  
19 renewal of licenses of applicants;

20 F. shall conduct hearings upon charges relating to  
21 discipline of a licensee or nurse not licensed to practice in  
22 New Mexico who is permitted to practice professional registered  
23 nursing or licensed practical nursing in New Mexico pursuant to  
24 a multistate licensure privilege as provided in the Nurse  
25 Licensure Compact or the denial, suspension or revocation of a

.211683.4

underscored material = new  
[bracketed material] = delete

1 license in accordance with the procedures of the Uniform  
2 Licensing Act;

3 G. shall cause the prosecution of all persons,  
4 including firms, associations, institutions and corporations,  
5 violating the Nursing Practice Act and have the power to incur  
6 such expense as is necessary therefor;

7 H. shall keep a record of all proceedings;

8 I. shall make an annual report to the governor;

9 J. shall appoint and employ a qualified registered  
10 nurse, who shall not be a member of the board, to serve as  
11 executive officer to the board, who shall define the duties and  
12 responsibilities of the executive officer, except that the  
13 power to grant, deny or withdraw approval for schools of  
14 nursing or to revoke, suspend or withhold any license  
15 authorized by the Nursing Practice Act shall not be delegated  
16 by the board;

17 K. shall provide for such qualified assistants as  
18 may be necessary to carry out the provisions of the Nursing  
19 Practice Act. Such employees shall be paid a salary  
20 commensurate with their duties;

21 L. shall, for the purpose of protecting the health  
22 and well-being of the citizens of New Mexico and promoting  
23 current nursing knowledge and practice, adopt rules [~~and~~  
24 ~~regulations~~] establishing continuing education requirements as  
25 a condition of license renewal and shall study methods of

.211683.4

underscored material = new  
[bracketed material] = delete

1 monitoring continuing competence;

2 M. may appoint advisory committees consisting of at  
3 least one member who is a board member and at least two members  
4 expert in the pertinent field of health care to assist it in  
5 the performance of its duties. Committee members may be  
6 reimbursed as provided in the Per Diem and Mileage Act;

7 N. may adopt and revise rules [~~and regulations~~]  
8 designed to maintain an inactive status listing for registered  
9 nurses and licensed practical nurses;

10 O. may adopt rules [~~and regulations~~] to regulate  
11 the advanced practice of professional registered nursing and  
12 expanded practice of licensed practical nursing;

13 P. shall license qualified certified nurse  
14 practitioners, certified registered nurse anesthetists and  
15 clinical nurse specialists;

16 Q. shall register nurses not licensed to practice  
17 in New Mexico who are permitted to practice professional  
18 registered nursing or licensed practical nursing in  
19 New Mexico pursuant to a multistate licensure privilege as  
20 provided in the Nurse Licensure Compact; [~~and~~]

21 R. shall adopt rules [~~and regulations~~] establishing  
22 standards for authorizing prescriptive authority to certified  
23 nurse practitioners, clinical nurse specialists and certified  
24 registered nurse anesthetists; and

25 S. shall create and maintain an online registration

.211683.4

underscoring material = new  
[bracketed material] = delete

1 process for those licensees permitted to practice pursuant to a  
2 multistate licensure privilege at no cost to those licensees."

3 SECTION 4. Section 61-3-14 NMSA 1978 (being Laws 1968,  
4 Chapter 44, Section 11, as amended) is amended to read:

5 "61-3-14. LICENSURE OF REGISTERED NURSES--EXPEDITED  
6 LICENSURE.--

7 A. Applicants for licensure by examination shall be  
8 required to pass the national licensing examination for  
9 registered nurses. The applicant who successfully passes the  
10 examination may be issued by the board a license to practice as  
11 a registered nurse.

12 B. The board may issue a license to practice  
13 professional registered nursing without an examination to an  
14 applicant who has been duly licensed by taking the national  
15 licensing examination for registered nurses under the laws of  
16 another state if the applicant meets the qualifications  
17 required of registered nurses in this state. From July 1, 2014  
18 through June 30, 2019, upon a determination by the board that  
19 an application is complete and approved, the board shall  
20 expedite the issuance of a license pursuant to this subsection  
21 within five business days.

22 C. The board may issue a license to practice as a  
23 registered nurse to an applicant licensed under the laws of  
24 another territory or foreign country if the applicant meets the  
25 qualifications required of registered nurses in this state, is

.211683.4

underscoring material = new  
[bracketed material] = delete

1 proficient in English and passes the national licensing  
2 examination for registered nurses.

3 D. Upon initial licensure to practice as a  
4 registered nurse or upon renewal of a license, a licensee may  
5 opt to receive a multistate licensure privilege. The board  
6 shall issue a single-state license to any licensee who chooses  
7 not to receive the multistate licensure privilege.

8 E. Nursing faculty, including adjunct faculty,  
9 practicing in pre-licensure nursing programs approved by the  
10 board shall hold nursing licenses issued by the board. The  
11 board shall create a separate, expedited license solely for  
12 this purpose for those nurses who do not already have a board-  
13 issued license.

14 F. Registered nurses and licensed practical nurses  
15 practicing in the state under the multistate licensure  
16 privilege shall meet the respective continuing education and  
17 professional development requirements of registered nurses and  
18 licensed practical nurses licensed in New Mexico and shall  
19 submit proof of meeting these requirements to the board in the  
20 same manner as required of licensees holding single-state  
21 licenses.

22 G. A registered nurse or licensed practical nurse  
23 who practices in the state under a multistate licensure  
24 privilege shall register with the board within thirty days of  
25 entering the state to practice nursing.

.211683.4

underscored material = new  
[bracketed material] = delete

1                   H. As used in this section:

2                   (1) "home state" means the party state that is  
3 the nurse's primary state of residence;

4                   (2) "multistate licensure privilege" means a  
5 legal authorization associated with a multistate license  
6 permitting the practice of nursing as either a registered nurse  
7 or a licensed practical or vocational nurse in a remote state;

8                   (3) "party state" means any state that has  
9 adopted the Nurse Licensure Compact;

10                   (4) "remote state" means a party state, other  
11 than the home state; and

12                   (5) "single-state license" means a nurse  
13 license issued by a party state that authorizes practice only  
14 within the issuing state and does not include a multistate  
15 licensure privilege to practice in any other party state."

16                   SECTION 5. Section 61-3-23.3 NMSA 1978 (being Laws 1991,  
17 Chapter 190, Section 15, as amended) is amended to read:

18                   "61-3-23.3. CERTIFIED REGISTERED NURSE ANESTHETIST--  
19 QUALIFICATIONS--LICENSURE--PRACTICE--ENDORSEMENT--EXPEDITED  
20 LICENSURE.--

21                   A. The board may license for advanced practice as a  
22 certified registered nurse anesthetist an applicant who  
23 furnishes evidence satisfactory to the board that the  
24 applicant:

25                   (1) is a registered nurse;

.211683.4

underscored material = new  
[bracketed material] = delete

1 (2) has successfully completed a nurse  
2 anesthesia education program accredited by the council on  
3 accreditation of nurse anesthesia [~~education~~] educational  
4 programs; provided that, if the applicant is initially licensed  
5 by the board or a board in another jurisdiction after January  
6 1, 2001, the program shall be at a master's level or higher;  
7 and

8 (3) is certified by the [~~council on~~] national  
9 board of certification [~~of~~] and recertification for nurse  
10 anesthetists.

11 B. A certified registered nurse anesthetist may  
12 provide preoperative, intraoperative and postoperative  
13 anesthesia care and related services, including ordering of  
14 diagnostic tests, in accordance with the current American  
15 association of nurse anesthetists' guidelines for nurse  
16 anesthesia practice.

17 C. Certified registered nurse anesthetists shall  
18 function in an [~~interdependent~~] independent role as a member of  
19 a health care team [~~in which the medical care of the patient is~~  
20 ~~directed by a licensed physician, osteopathic physician,~~  
21 ~~dentist or podiatrist licensed in New Mexico pursuant to~~  
22 ~~Chapter 61, Article 5A, 6, 8 or 10 NMSA 1978. The certified~~  
23 ~~registered nurse anesthetist shall collaborate with the~~  
24 ~~licensed physician, osteopathic physician, dentist or~~  
25 ~~podiatrist concerning the anesthesia care of the patient. As~~

.211683.4

underscoring material = new  
[bracketed material] = delete

1 ~~used in this subsection, "collaboration" means the process in~~  
2 ~~which each health care provider contributes the health care~~  
3 ~~provider's respective expertise. Collaboration includes~~  
4 ~~systematic formal planning and evaluation between the health~~  
5 ~~care professionals involved in the collaborative practice~~  
6 ~~arrangement].~~

7 D. A certified registered nurse anesthetist who has  
8 fulfilled the requirements for prescriptive authority in the  
9 area of anesthesia practice is authorized to prescribe and  
10 administer therapeutic measures, including dangerous drugs and  
11 controlled substances included in Schedules II through V of the  
12 Controlled Substances Act within the emergency procedures,  
13 perioperative care or perinatal care environments. Dangerous  
14 drugs and controlled substances, pursuant to the Controlled  
15 Substances Act, that have been prepared, packaged or fabricated  
16 by a registered pharmacist or doses of drugs that have been  
17 prepackaged by a pharmaceutical manufacturer in accordance with  
18 the Pharmacy Act and the New Mexico Drug, Device and Cosmetic  
19 Act may be prescribed and administered.

20 E. A certified registered nurse anesthetist who has  
21 fulfilled the requirements for prescriptive authority in the  
22 area of anesthesia practice may prescribe in accordance with  
23 rules, regulations and guidelines. The board shall adopt rules  
24 concerning a prescriptive authority formulary for certified  
25 registered nurse anesthetists that shall be based on the scope

.211683.4

underscored material = new  
[bracketed material] = delete

1 of practice of certified registered nurse anesthetists. The  
2 board, in collaboration with the New Mexico medical board,  
3 shall develop the formulary. Certified registered nurse  
4 anesthetists who prescribe shall do so in accordance with the  
5 prescriptive authority formulary.

6 F. [~~From July 1, 2014 through June 30, 2019~~] Upon a  
7 determination by the board that an application is complete and  
8 approved, the board shall issue a license to a certified  
9 registered nurse anesthetist licensed in another state if the  
10 applicant meets the qualifications required of certified  
11 registered nurse anesthetists in this state. The board shall  
12 expedite the issuance of the license within five business days.

13 G. A health care facility may adopt policies  
14 relating to the providing of anesthesia care.

15 H. A certified registered nurse anesthetist  
16 licensed by the board shall maintain [~~this~~] certification with  
17 the [~~American association of~~] national board of certification  
18 and recertification for nurse [anesthetists' council on  
19 certification] anesthetists."

20 SECTION 6. A new section of the Nursing Practice Act is  
21 enacted to read:

22 "[NEW MATERIAL] DATA--STATE OWNERSHIP.--The state of New  
23 Mexico owns any data that the board generates."

24 SECTION 7. A new section of the Nursing Practice Act is  
25 enacted to read:

.211683.4

underscored material = new  
[bracketed material] = delete

1           "[NEW MATERIAL] DISCIPLINARY PROCEEDINGS--PROHIBITION.--  
2     Advisory and volunteer members of the board shall not  
3     participate in any board proceeding related to the discipline  
4     of a licensee."

5           **SECTION 8.** A new section of the Nursing Practice Act is  
6     enacted to read:

7           "[NEW MATERIAL] INTERSTATE COMMISSION OF NURSE LICENSURE  
8     COMPACT ADMINISTRATORS--RULES.--No rule that the interstate  
9     commission of nurse licensure compact administrators adopts and  
10    that affects the practice of nursing in this state shall be  
11    effective in New Mexico unless the board adopts and promulgates  
12    that rule in accordance with the State Rules Act."

13          **SECTION 9.** A new section of the Nursing Practice Act is  
14    enacted to read:

15          "[NEW MATERIAL] INTERSTATE COMMISSION OF NURSE LICENSURE  
16    COMPACT ADMINISTRATORS--RECORDS--FILING WITH BOARD.--The state  
17    compact administrator of the interstate commission of nurse  
18    licensure compact administrators shall file with the board any  
19    agenda, minutes, report or rulemaking record of that interstate  
20    commission. These agendas, minutes, reports and rulemaking  
21    records are subject to disclosure pursuant to the Inspection of  
22    Public Records Act."

23          **SECTION 10.** TEMPORARY PROVISION--PRIOR-APPOINTED BOARD  
24    TERMS.--Members of the board of nursing whose terms commenced  
25    before July 1, 2019, shall serve out those terms. The governor

.211683.4

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

1 shall appoint members in accordance with the provisions of  
2 Section 2 of this 2019 act to replace members whose terms  
3 commenced before July 1, 2019 as those members' terms expire.

4 SECTION 11. EFFECTIVE DATE.--The effective date of the  
5 provisions of this act is July 1, 2019.

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25