

HOUSE BILL 349

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

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AN ACT

RELATING TO LICENSURE; AMENDING AND ENACTING NEW SECTIONS OF
THE NURSING PRACTICE ACT.

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

SECTION 1. Section 61-3-3 NMSA 1978 (being Laws 1991,
Chapter 190, Section 2, as amended) is amended to read:

"61-3-3. DEFINITIONS.--As used in the Nursing Practice
Act:

A. "advanced practice" means the practice of
professional registered nursing by a registered nurse who has
been prepared through additional formal education as provided
in Sections 61-3-23.2 through 61-3-23.4 NMSA 1978 to function
beyond the scope of practice of professional registered
nursing, including certified nurse practitioners, certified
registered nurse anesthetists and clinical nurse specialists;

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1 B. "advanced practice registered nurse" means a
2 certified nurse practitioner, certified registered nurse
3 anesthetist or clinical nurse specialist who has completed
4 advanced education and clinical training to obtain board
5 certification;

6 C. "anesthesia" means a state of controlled,
7 temporary loss of sensation or awareness that is induced for
8 medical purposes. "Anesthesia" includes inducing analgesia,
9 muscle relaxation, amnesia and unconsciousness;

10 ~~[B.]~~ D. "board" means the board of nursing;

11 ~~[C.]~~ E. "certified hemodialysis technician" means a
12 person who is certified by the board to assist in the direct
13 care of a patient undergoing hemodialysis, under the
14 supervision and at the direction of a registered nurse or a
15 licensed practical nurse, according to the rules adopted by the
16 board;

17 ~~[D.]~~ F. "certified medication aide" means a person
18 who is certified by the board to administer medications under
19 the supervision and at the direction of a registered nurse or a
20 licensed practical nurse, according to the rules adopted by the
21 board;

22 ~~[E.]~~ G. "certified nurse practitioner" means a
23 registered nurse who is licensed by the board for advanced
24 practice as a certified nurse practitioner and whose name and
25 pertinent information are entered on the list of certified

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1 nurse practitioners maintained by the board;

2 ~~[F.]~~ H. "certified registered nurse anesthetist"
3 means a registered nurse who is licensed by the board for
4 advanced practice as a certified registered nurse anesthetist
5 and whose name and pertinent information are entered on the
6 list of certified registered nurse anesthetists maintained by
7 the board;

8 ~~[G.]~~ I. "clinical nurse specialist" means a
9 registered nurse who is licensed by the board for advanced
10 practice as a clinical nurse specialist and whose name and
11 pertinent information are entered on the list of clinical nurse
12 specialists maintained by the board;

13 ~~[H.]~~ J. "collaboration" means the cooperative
14 working relationship with another health care provider in the
15 provision of patient care, and such collaborative practice
16 includes the discussion of patient diagnosis and cooperation in
17 the management and delivery of health care;

18 ~~[I.]~~ K. "licensed practical nurse" means a nurse
19 who practices licensed practical nursing and whose name and
20 pertinent information are entered in the register of licensed
21 practical nurses maintained by the board or a nurse who
22 practices licensed practical nursing pursuant to a multistate
23 licensure privilege as provided in the Nurse Licensure Compact;

24 ~~[J.]~~ L. "licensed practical nursing" means the
25 practice of a directed scope of nursing requiring basic

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1 knowledge of the biological, physical, social and behavioral
2 sciences and nursing procedures, which practice is at the
3 direction of a registered nurse, physician or dentist licensed
4 to practice in this state. This practice includes but is not
5 limited to:

6 (1) contributing to the assessment of the
7 health status of individuals, families and communities;

8 (2) participating in the development and
9 modification of the plan of care;

10 (3) implementing appropriate aspects of the
11 plan of care commensurate with education and verified
12 competence;

13 (4) collaborating with other health care
14 professionals in the management of health care; and

15 (5) participating in the evaluation of
16 responses to interventions;

17 ~~[K.]~~ M. "Nurse Licensure Compact" means the
18 agreement entered into between New Mexico and other
19 jurisdictions permitting the practice of professional
20 registered nursing or licensed practical nursing pursuant to a
21 multistate licensure privilege;

22 ~~[L.]~~ N. "nursing diagnosis" means a clinical
23 judgment about individual, family or community responses to
24 actual or potential health problems or life processes, which
25 judgment provides a basis for the selection of nursing

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1 interventions to achieve outcomes for which the person making
2 the judgment is accountable;

3 [M-] O. "practice of nursing" means assisting
4 individuals, families or communities in maintaining or
5 attaining optimal health, assessing and implementing a plan of
6 care to accomplish defined goals and evaluating responses to
7 care and treatment. This practice is based on specialized
8 knowledge, judgment and nursing skills acquired through
9 educational preparation in nursing and in the biological,
10 physical, social and behavioral sciences and includes but is
11 not limited to:

12 (1) initiating and maintaining comfort
13 measures;

14 (2) promoting and supporting optimal human
15 functions and responses;

16 (3) establishing an environment conducive to
17 well-being or to the support of a dignified death;

18 (4) collaborating on the health care regimen;

19 (5) administering medications and performing
20 treatments prescribed by a person authorized in this state or
21 in any other state in the United States to prescribe them;

22 (6) recording and reporting nursing
23 observations, assessments, interventions and responses to
24 health care;

25 (7) providing counseling and health teaching;

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1 (8) delegating and supervising nursing
2 interventions that may be performed safely by others and are
3 not in conflict with the Nursing Practice Act; and

4 (9) maintaining accountability for safe and
5 effective nursing care;

6 [N.] P. "professional registered nursing" means the
7 practice of the full scope of nursing requiring substantial
8 knowledge of the biological, physical, social and behavioral
9 sciences and of nursing theory and may include advanced
10 practice pursuant to the Nursing Practice Act. This practice
11 includes ~~[but is not limited to]~~:

12 (1) assessing the health status of
13 individuals, families and communities;

14 (2) establishing a nursing diagnosis;

15 (3) establishing goals to meet identified
16 health care needs;

17 (4) developing a plan of care;

18 (5) determining nursing intervention to
19 implement the plan of care;

20 (6) implementing the plan of care commensurate
21 with education and verified competence;

22 (7) evaluating responses to interventions;

23 (8) teaching based on the theory and practice
24 of nursing;

25 (9) managing and supervising the practice of

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1 nursing;

2 (10) collaborating with other health care
3 professionals in the management of health care; and

4 (11) conducting nursing research;

5 [Q.] Q. "registered nurse" means a nurse who
6 practices professional registered nursing and whose name and
7 pertinent information are entered in the register of licensed
8 registered nurses maintained by the board or a nurse who
9 practices professional registered nursing pursuant to a
10 multistate licensure privilege as provided in the Nurse
11 Licensure Compact;

12 [R.] R. "scope of practice" means the parameters
13 within which nurses practice based upon education, experience,
14 licensure, certification and expertise; and

15 [S.] S. "training program" means an educational
16 program approved by the board."

17 SECTION 2. Section 61-3-5.1 NMSA 1978 (being Laws 2001,
18 Chapter 137, Section 14) is amended to read:

19 "61-3-5.1. TEMPORARY LICENSURE.--An applicant for nurse
20 licensure pursuant to the Nursing Practice Act may be issued a
21 temporary license for a period not to exceed six months or for
22 a period of time necessary for the board to ensure that the
23 applicant has met the licensure requirements set out in that
24 act, whichever is less. Candidates for temporary licensure are
25 nurses who:

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- 1 A. cannot obtain documentation of good standing;
- 2 B. have not practiced for four years or longer and
- 3 are seeking license reactivation; or
- 4 C. are seeking license reinstatement upon
- 5 completion of disciplinary constraints."

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

8 "61-3-6. ADMINISTRATION OF ANESTHETICS.--It is unlawful
9 for any person, other than a person licensed in New Mexico to
10 practice medicine, osteopathy or dentistry or a currently
11 licensed certified registered nurse anesthetist, to administer
12 [~~anesthetics~~] anesthesia to any person. Nothing in this
13 section prohibits a person currently licensed pursuant to the
14 Nursing Practice Act [~~from using hypnosis or~~] from
15 administering local anesthetics, [~~or~~] moderate sedation,
16 analgesia or an anxiolytic."

17 SECTION 4. Section 61-3-8 NMSA 1978 (being Laws 1968,
18 Chapter 44, Section 5, as amended by Laws 1991, Chapter 189,
19 Section 3 and also by Laws 1991, Chapter 190, Section 5) is
20 amended to read:

21 "61-3-8. BOARD CREATED--MEMBERS--QUALIFICATIONS--TERMS--
22 VACANCIES--REMOVAL.--

23 A. There is created a [~~seven-member~~] nine-member
24 "board of nursing". The board shall consist of [~~four~~] six
25 licensed registered nurses, one preferably a licensed practical

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1 nurse, and three members who shall represent the public and
2 shall not have been licensed as registered or licensed
3 practical nurses, nor shall the public members have any
4 significant financial interest, direct or indirect, in the
5 profession regulated. Not more than two board members shall be
6 appointed from any one county, and not more than two registered
7 nurse members shall be from any one field of nursing. Members
8 of the board shall be appointed by the governor for staggered
9 terms of four years each. Nurse members shall be appointed
10 from lists submitted to the governor by any generally
11 recognized organization of nurses in this state. Appointments
12 shall be made in such manner that the terms of no more than two
13 board members expire on July 1 of each year. Vacancies shall
14 be filled by appointment by the governor for the unexpired term
15 within sixty days of the vacancy. Board members shall serve
16 until their successors have been appointed and qualified.

17 B. Members of the board shall be citizens of the
18 United States and residents of this state. Registered nurse
19 members shall be licensed in this state, shall have had, since
20 graduation, at least five years' experience in nursing, shall
21 be currently engaged in professional nursing and shall have
22 been actively engaged in professional nursing for at least
23 three years immediately preceding appointment or reappointment.
24 The licensed practical nurse member shall be licensed in this
25 state, shall have been graduated from an approved licensed

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1 practical nursing education program, shall have been licensed
2 by examination, shall have had at least five years' experience
3 since graduation, shall be currently engaged in licensed
4 practical nursing and shall have been actively engaged in
5 licensed practical nursing for at least three years immediately
6 preceding appointment or reappointment.

7 C. No board member shall serve more than two full
8 or partial terms, consecutive or otherwise.

9 D. Any board member failing to attend seventy
10 percent of meeting days annually, either regular or special,
11 shall automatically be removed as a member of the board.

12 E. The governor may remove any member from the
13 board for neglect of any duty required by law, for incompetency
14 or for unprofessional or dishonorable conduct, in accordance
15 with regulations prescribed by the board.

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

22 SECTION 5. Section 61-3-10 NMSA 1978 (being Laws 1968,
23 Chapter 44, Section 7, as amended) is amended to read:

24 "61-3-10. POWERS--DUTIES.--The board:

25 A. shall promulgate rules in accordance with the

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1 State Rules Act as necessary to enable it to carry into effect
2 the provisions of the Nursing Practice Act and to maintain high
3 standards of practice;

4 B. shall prescribe standards and approve curricula
5 for educational programs preparing persons for licensure under
6 the Nursing Practice Act;

7 C. shall provide for surveys of educational
8 programs preparing persons for licensure under the Nursing
9 Practice Act;

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

13 E. shall provide for the examination, licensing and
14 renewal of licenses of applicants;

15 F. shall conduct hearings upon charges relating to
16 discipline of a licensee or nurse not licensed to practice in
17 New Mexico who is permitted to practice professional registered
18 nursing or licensed practical nursing in New Mexico pursuant to
19 a multistate licensure privilege as provided in the Nurse
20 Licensure Compact;

21 G. shall conduct hearings upon charges related to
22 an applicant or discipline of a licensee or the denial,
23 suspension or revocation of a license in accordance with the
24 procedures of the Uniform Licensing Act;

25 H. shall cause the prosecution of persons violating

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1 the Nursing Practice Act and have the power to incur such
2 expense as is necessary for the prosecution;

3 I. shall keep a record of all proceedings;

4 J. shall make an annual report to the governor;

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

13 L. shall provide for such qualified assistants as
14 may be necessary to carry out the provisions of the Nursing
15 Practice Act. Such employees shall be paid a salary
16 commensurate with their duties;

17 M. shall, for the purpose of protecting the health
18 and well-being of residents of New Mexico and promoting current
19 nursing knowledge and practice, promulgate rules establishing
20 continuing education requirements as a condition of license
21 renewal and shall study methods of monitoring continuing
22 competence;

23 N. may appoint advisory committees consisting of at
24 least one member who is a board member and at least two members
25 who are expert in the pertinent field of health care to assist

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1 it in the performance of its duties. Committee members may be
2 reimbursed as provided in the Per Diem and Mileage Act;

3 O. may promulgate rules designed to maintain an
4 inactive status listing for registered nurses and licensed
5 practical nurses;

6 P. may promulgate rules to regulate the advanced
7 practice of professional registered nursing and expanded
8 practice of licensed practical nursing;

9 Q. shall license qualified certified nurse
10 practitioners, certified registered nurse anesthetists and
11 clinical nurse specialists;

12 R. shall register nurses not licensed to practice
13 in New Mexico who are permitted to practice professional
14 registered nursing or licensed practical nursing in New Mexico
15 pursuant to a multistate licensure privilege as provided in the
16 Nurse Licensure Compact;

17 S. shall promulgate rules establishing standards
18 for authorizing prescriptive authority to certified nurse
19 practitioners, clinical nurse specialists and certified
20 registered nurse anesthetists; ~~[and]~~

21 T. shall determine by rule the states and
22 territories of the United States or the District of Columbia
23 from which it will not accept an applicant for expedited
24 licensure and shall determine any foreign countries from which
25 it will accept an applicant for expedited licensure. The board

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1 shall post the lists of unapproved and approved licensing
2 jurisdictions on the board's website. The list of disapproved
3 licensing jurisdictions shall include the specific reasons for
4 disapproval. The lists shall be reviewed annually to determine
5 if amendments to the rule are warranted;

6 U. shall promulgate rules creating a retired
7 registered nurse license category without a licensing fee;

8 V. shall ensure that New Mexico nursing data
9 collected by the board is owned by the board;

10 W. shall ensure a system that coordinates, updates
11 and ensures that the core curricula of every state-supported
12 school of nursing is accepted for degree credit at every other
13 state-supported school of nursing; and

14 X. shall allow a nurse applying for a first-time
15 license or a renewal license to request a single state
16 license."

17 SECTION 6. Section 61-3-16 NMSA 1978 (being Laws 1968,
18 Chapter 44, Section 13, as amended) is amended to read:

19 "61-3-16. FEES FOR LICENSURE AS A REGISTERED NURSE.--

20 A. Except as provided in Section 61-1-34 NMSA 1978,
21 an applicant for licensure as a registered nurse shall pay the
22 following nonrefundable fees:

23 [~~A.~~] (1) for licensure without examination, a
24 fee not to exceed [~~one hundred fifty dollars (\$150)~~] two
25 hundred dollars (\$200);

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1 [~~B.~~] (2) for licensure by examination when the
2 examination is the first for the applicant in this state, a fee
3 not to exceed one hundred fifty dollars (\$150);

4 [~~C.~~] (3) for licensure by examination when the
5 examination is other than the first examination, a fee not to
6 exceed sixty dollars (\$60.00); and

7 [~~D.~~] (4) for initial licensure as a certified
8 nurse practitioner, certified registered nurse anesthetist or
9 clinical nurse specialist, a fee not to exceed [~~one hundred~~
10 ~~dollars (\$100)] two hundred dollars (\$200). This fee shall be
11 in addition to the fee paid for registered nurse licensure.~~

12 B. The board may waive the fee for an initial
13 license for a registered nurse."

14 SECTION 7. Section 61-3-22 NMSA 1978 (being Laws 1968,
15 Chapter 44, Section 19, as amended) is amended to read:

16 "61-3-22. FEES FOR LICENSURE AS A LICENSED PRACTICAL
17 NURSE.--

18 A. Except as provided in Section 61-1-34 NMSA 1978,
19 an applicant for licensure as a licensed practical nurse shall
20 pay the following nonrefundable fees:

21 [~~A.~~] (1) for licensure without examination, a
22 fee not to exceed one hundred fifty dollars (\$150);

23 [~~B.~~] (2) for licensure by examination when the
24 examination is the first for the applicant in this state, a fee
25 not to exceed one hundred fifty dollars (\$150); and

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1 [~~6.~~] (3) for licensure by examination when the
2 examination is other than the first examination, a fee not to
3 exceed sixty dollars (\$60.00) for each examination.

4 B. The board may waive the fee for an initial
5 license for a licensed practical nurse."

6 SECTION 8. Section 61-3-23.2 NMSA 1978 (being Laws 1991,
7 Chapter 190, Section 14, as amended) is amended to read:

8 "61-3-23.2. CERTIFIED NURSE PRACTITIONER--
9 QUALIFICATIONS--PRACTICE--EXAMINATION--ENDORSEMENT--EXPEDITED
10 LICENSURE.--

11 A. The board may license for advanced practice as a
12 certified nurse practitioner an applicant who furnishes
13 evidence satisfactory to the board that the applicant:

- 14 (1) is a registered nurse;
- 15 (2) has successfully completed a program for
16 the education and preparation of nurse practitioners; provided
17 that, if the applicant is initially licensed by the board or a
18 board in another jurisdiction after January 1, 2001, the
19 program shall be at the master's level or higher;
- 20 (3) has successfully completed the national
21 certifying examination in the applicant's specialty area; and
- 22 (4) is certified by a national nursing
23 organization.

24 B. Certified nurse practitioners may:

- 25 (1) perform an advanced practice that is

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1 beyond the scope of practice of professional registered
2 nursing;

3 (2) practice independently and make decisions
4 regarding health care needs of the individual, family or
5 community and carry out health regimens, including the
6 prescription and distribution of dangerous drugs and controlled
7 substances included in Schedules II through V of the Controlled
8 Substances Act; and

9 (3) serve as a primary acute, chronic long-
10 term and end-of-life health care provider and as necessary
11 collaborate with licensed medical doctors, osteopathic
12 physicians or podiatrists.

13 C. Certified nurse practitioners who have fulfilled
14 requirements for prescriptive authority may prescribe in
15 accordance with rules [~~guidelines and formularies for~~
16 ~~individual certified nurse practitioners~~] promulgated by the
17 board.

18 D. Certified nurse practitioners who have fulfilled
19 requirements for prescriptive authority may distribute to their
20 patients dangerous drugs and controlled substances included in
21 Schedules II through V of the Controlled Substances Act that
22 have been prepared, packaged or fabricated by a registered
23 pharmacist or doses of drugs that have been prepackaged by a
24 pharmaceutical manufacturer in accordance with the Pharmacy Act
25 and the New Mexico Drug, Device and Cosmetic Act.

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1 E. Certified nurse practitioners licensed by the
2 board on and after December 2, 1985 shall successfully complete
3 a national certifying examination and shall maintain national
4 professional certification in their specialty area. Certified
5 nurse practitioners licensed by a board prior to December 2,
6 1985 are not required to sit for a national certification
7 examination or be certified by a national organization.

8 F. The board shall issue an expedited license to an
9 applicant without an examination if the person has been duly
10 licensed as a certified nurse practitioner in another licensing
11 jurisdiction and is in good standing with the licensing board
12 in that licensing jurisdiction. The board shall expedite the
13 issuance of the license in accordance with Section 61-1-31.1
14 NMSA 1978 within thirty days. If the board issues an expedited
15 license to a person whose prior licensing jurisdiction did not
16 require examination, the board may require that person to pass
17 an examination before applying for license renewal. An
18 applicant licensed under the laws of a territory or foreign
19 country shall demonstrate proficiency in English."

20 SECTION 9. Section 61-3-23.3 NMSA 1978 (being Laws 1991,
21 Chapter 190, Section 15, as amended) is amended to read:

22 "61-3-23.3. CERTIFIED REGISTERED NURSE ANESTHETIST--
23 QUALIFICATIONS--LICENSURE--PRACTICE--ENDORSEMENT--EXPEDITED
24 LICENSURE.--

25 A. The board may license for advanced practice as a
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1 certified registered nurse anesthetist an applicant who
2 furnishes evidence satisfactory to the board that the
3 applicant:

4 (1) is a registered nurse;

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

12 (3) is certified by the national board of
13 certification and recertification for nurse anesthetists.

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

20 C. Certified registered nurse anesthetists shall
21 function in an interdependent role as a member of a health care
22 team in which the medical care of the patient is directed by a
23 licensed physician, osteopathic physician, dentist or
24 podiatrist licensed in New Mexico pursuant to the Dental Health
25 Care Act, the Medical Practice Act or the Podiatry Act. The

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1 certified registered nurse anesthetist shall collaborate with
2 the licensed physician, osteopathic physician, dentist or
3 podiatrist concerning the anesthesia care of the patient. As
4 used in this subsection, "collaboration" means the process in
5 which each health care provider contributes the health care
6 provider's respective expertise. "Collaboration" includes
7 systematic formal planning and evaluation between the health
8 care professionals involved in the collaborative practice
9 arrangement.

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

23 E. A certified registered nurse anesthetist who has
24 fulfilled the requirements for prescriptive authority in the
25 area of anesthesia practice may prescribe in accordance with

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1 rules of the board. [~~The board shall adopt rules concerning a~~
2 ~~prescriptive authority formulary for certified registered nurse~~
3 ~~anesthetists that shall be based on the scope of practice of~~
4 ~~certified registered nurse anesthetists. The board, in~~
5 ~~collaboration with the New Mexico medical board, shall develop~~
6 ~~the formulary. Certified registered nurse anesthetists who~~
7 ~~prescribe shall do so in accordance with the prescriptive~~
8 ~~authority formulary.]~~

9 F. The board shall issue an expedited license to an
10 applicant without an examination if the person has been duly
11 licensed as a certified registered nurse anesthetist in another
12 licensing jurisdiction and is in good standing with the
13 licensing board in that licensing jurisdiction. The board
14 shall expedite the issuance of the license in accordance with
15 Section 61-1-31.1 NMSA 1978 within thirty days. If the board
16 issues an expedited license to a person whose prior licensing
17 jurisdiction did not require examination, the board may require
18 that person to pass an examination before applying for license
19 renewal. An applicant licensed under the laws of a territory
20 or foreign country shall demonstrate proficiency in English.

21 G. A health care facility may adopt policies
22 relating to the providing of anesthesia care.

23 H. A certified registered nurse anesthetist
24 licensed by the board shall maintain this certification with
25 the national board of certification and recertification for

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1 nurse anesthetists."

2 SECTION 10. Section 61-3-23.4 NMSA 1978 (being Laws 1991,
3 Chapter 190, Section 16, as amended) is amended to read:

4 "61-3-23.4. CLINICAL NURSE SPECIALIST--QUALIFICATIONS--
5 ENDORSEMENT--EXPEDITED LICENSURE.--

6 A. The board may license for advanced practice as a
7 clinical nurse specialist an applicant who furnishes evidence
8 satisfactory to the board that the applicant:

9 (1) is a registered nurse;

10 (2) has a master's degree or doctoral degree
11 in a defined clinical nursing specialty;

12 (3) has successfully completed a national
13 certifying examination in the applicant's area of specialty;
14 and

15 (4) is certified by a national nursing
16 organization.

17 B. Clinical nurse specialists may:

18 (1) perform an advanced practice that is
19 beyond the scope of practice of professional registered
20 nursing;

21 (2) make independent decisions in a
22 specialized area of nursing practice using expert knowledge
23 regarding the health care needs of the individual, family and
24 community, collaborating as necessary with other members of the
25 health care team when the health care need is beyond the scope

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1 of practice of the clinical nurse specialist; and

2 (3) carry out therapeutic regimens in the area
3 of specialty practice, including the prescription and
4 distribution of dangerous drugs.

5 C. A clinical nurse specialist who has fulfilled
6 the requirements for prescriptive authority in the area of
7 specialty practice is authorized to prescribe, administer and
8 distribute therapeutic measures, including dangerous drugs and
9 controlled substances included in Schedules II through V of the
10 Controlled Substances Act within the scope of specialty
11 practice, including controlled substances pursuant to the
12 Controlled Substances Act that have been prepared, packaged or
13 fabricated by a registered pharmacist or doses of drugs that
14 have been prepackaged by a pharmaceutical manufacturer in
15 accordance with the Pharmacy Act and the New Mexico Drug,
16 Device and Cosmetic Act.

17 D. Clinical nurse specialists who have fulfilled
18 the requirements for prescriptive authority in the area of
19 specialty practice may prescribe in accordance with rules
20 ~~[guidelines and formularies based on scope of practice and~~
21 ~~clinical setting for individual clinical nurse specialists]~~
22 promulgated by the board.

23 E. Clinical nurse specialists licensed by the board
24 shall maintain certification in their specialty area.

25 F. The board shall issue an expedited license to an

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1 applicant without an examination if the person has been duly
2 licensed as a clinical nurse specialist in another licensing
3 jurisdiction and is in good standing with the licensing board
4 in that licensing jurisdiction. The board shall expedite the
5 issuance of the license in accordance with Section 61-1-31.1
6 NMSA 1978 within thirty days. If the board issues an expedited
7 license to a person whose prior licensing jurisdiction did not
8 require examination, the board may require that person to pass
9 an examination before applying for license renewal. An
10 applicant licensed under the laws of a territory or foreign
11 country shall demonstrate proficiency in English."

12 SECTION 11. Section 61-3-24 NMSA 1978 (being Laws 1968,
13 Chapter 44, Section 20, as amended) is amended to read:

14 "61-3-24. RENEWAL OF LICENSES.--

15 A. Any person licensed pursuant to the provisions
16 of the Nursing Practice Act who intends to continue practice
17 shall renew the license every two years by the end of the
18 applicant's renewal month and shall show proof of continuing
19 education as required by the board except when on active
20 military duty during a military action.

21 B. Upon receipt of the application and, except as
22 provided in Section 61-1-34 NMSA 1978, a fee, in an amount not
23 to exceed [~~one hundred ten dollars (\$110)~~] one hundred fifty
24 dollars (\$150), a license valid for two years shall be issued.

25 C. Upon receipt of the application and any required

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1 fee, the board shall verify the licensee's eligibility for
2 continued licensure and issue to the applicant a renewal
3 license for two years.

4 D. A person who allows a license to lapse shall be
5 reinstated by the board on payment of any required fee for the
6 current two years plus a reinstatement fee not to exceed two
7 hundred dollars (\$200), provided that all other requirements
8 are met."

9 SECTION 12. Section 61-3-28 NMSA 1978 (being Laws 1968,
10 Chapter 44, Section 24, as amended) is amended to read:

11 "61-3-28. DISCIPLINARY PROCEEDINGS--JUDICIAL REVIEW--
12 APPLICATION OF UNIFORM LICENSING ACT--LIMITATION.--

13 A. In accordance with the procedures contained in
14 the Uniform Licensing Act, the board may deny, revoke or
15 suspend any license held or applied for under the Nursing
16 Practice Act, reprimand or place a licensee on probation or
17 deny, limit or revoke the multistate licensure privilege of a
18 nurse desiring to practice or practicing professional
19 registered nursing or licensed practical nursing as provided in
20 the Nurse Licensure Compact upon grounds that the licensee,
21 applicant or nurse:

22 (1) is guilty of fraud or deceit in procuring
23 or attempting to procure a license or certificate of
24 registration;

25 (2) is convicted of a felony;

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1 (3) is unfit or incompetent;

2 (4) ~~[is intemperate or]~~ is addicted to the use
3 of habit-forming ~~[drugs]~~ substances;

4 (5) is mentally incompetent;

5 (6) is guilty of unprofessional conduct as
6 defined by the rules and regulations adopted by the board
7 pursuant to the Nursing Practice Act;

8 (7) has willfully or repeatedly violated any
9 provisions of the Nursing Practice Act, including any rule or
10 regulation adopted by the board pursuant to that act;

11 (8) was licensed to practice nursing in any
12 jurisdiction, territory or possession of the United States or
13 another country and was the subject of disciplinary action as a
14 licensee for acts similar to acts described in this subsection.
15 A certified copy of the record of the jurisdiction, territory
16 or possession of the United States or another country taking
17 the disciplinary action is conclusive evidence of the action;
18 or

19 (9) uses conversion therapy on a minor.

20 B. Disciplinary proceedings may be instituted by
21 any person, shall be by complaint and shall conform with the
22 provisions of the Uniform Licensing Act. Any party to the
23 hearing may obtain a copy of the hearing record upon payment of
24 costs for the copy.

25 C. Any person filing a complaint shall be immune

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1 from liability arising out of civil action if the complaint is
2 filed with reasonable care.

3 D. The board shall not initiate a disciplinary
4 action more than two years after the date that it receives a
5 complaint.

6 E. The time limitation contained in Subsection D of
7 this section shall not be tolled by any civil or criminal
8 litigation in which the licensee or applicant is a party,
9 arising substantially from the same facts, conduct,
10 transactions or occurrences that would be the basis for the
11 board's disciplinary action.

12 F. The board may recover the costs associated with
13 the investigation and disposition of a disciplinary proceeding
14 from the nurse who is the subject of the proceeding if the
15 nurse is practicing professional registered nursing or licensed
16 practical nursing pursuant to a multistate licensure privilege
17 as provided in the Nurse Licensure Compact.

18 G. As used in this section:

19 (1) "conversion therapy" means any practice or
20 treatment that seeks to change a person's sexual orientation or
21 gender identity, including any effort to change behaviors or
22 gender expressions or to eliminate or reduce sexual or romantic
23 attractions or feelings toward persons of the same sex.

24 "Conversion therapy" does not mean:

25 (a) counseling or mental health services

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1 that provide acceptance, support and understanding of a person
2 without seeking to change gender identity or sexual
3 orientation; or

4 (b) mental health services that
5 facilitate a person's coping, social support, sexual
6 orientation or gender identity exploration and development,
7 including an intervention to prevent or address unlawful
8 conduct or unsafe sexual practices, without seeking to change
9 gender identity or sexual orientation;

10 (2) "gender identity" means a person's self-
11 perception, or perception of that person by another, of the
12 person's identity as a male or female based upon the person's
13 appearance, behavior or physical characteristics that are in
14 accord or opposed to the person's physical anatomy, chromosomal
15 sex or sex at birth;

16 (3) "minor" means a person under eighteen
17 years of age; and

18 (4) "sexual orientation" means
19 heterosexuality, homosexuality or bisexuality, whether actual
20 or perceived."

21 SECTION 13. Section 61-3-29.1 NMSA 1978 (being Laws 1987,
22 Chapter 285, Section 1, as amended) is amended to read:

23 "61-3-29.1. [~~DIVERSION~~] ALTERNATIVE TO DISCIPLINE PROGRAM
24 CREATED--ADVISORY COMMITTEE--RENEWAL FEE--REQUIREMENTS--
25 IMMUNITY FROM CIVIL ACTIONS.--

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1 A. The board shall establish [~~a diversion~~] an
2 alternative to discipline program to rehabilitate nurses whose
3 competencies may be impaired because of the abuse of drugs or
4 alcohol so that nurses can be treated and returned to or
5 continue the practice of nursing in a manner that will benefit
6 the public. The intent of the [~~diversion~~] alternative to
7 discipline program is to develop a voluntary alternative to
8 traditional disciplinary actions and an alternative to lengthy
9 and costly investigations and administrative proceedings
10 against such nurses, at the same time providing adequate
11 safeguards for the public.

12 B. The board shall appoint one or more evaluation
13 committees, hereinafter called "regional advisory committees",
14 each of which shall be composed of members with expertise in
15 chemical dependency. At least one member shall be a registered
16 nurse. No current member of the board shall be appointed to a
17 regional advisory committee. The executive officer of the
18 board or the executive officer's designee shall be the liaison
19 between each regional advisory committee and the board.

20 C. Each regional advisory committee shall function
21 under the direction of the board and in accordance with
22 [~~regulations~~] rules of the board. The [~~regulations~~] rules
23 shall include directions to a regional advisory committee to:

24 (1) establish criteria for continuance in the
25 program;

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1 (2) develop a written [~~diversion~~] alternative
2 to discipline program contract to be approved by the board that
3 sets forth the requirements that shall be met by the nurse and
4 the conditions under which the [~~diversion~~] alternative to
5 discipline program may be successfully completed or terminated;

6 (3) recommend to the board in favor of or
7 against each nurse's discharge from the [~~diversion~~] alternative
8 to discipline program;

9 (4) evaluate each nurse's progress in recovery
10 and compliance with the nurse's [~~diversion~~] alternative to
11 discipline program contract;

12 (5) report violations to the board;

13 (6) submit an annual report to the board; and

14 (7) coordinate educational programs and
15 research related to chemically dependent nurses.

16 D. The board may increase the renewal fee for each
17 nurse in the state not to exceed twenty dollars (\$20.00) for
18 the purpose of implementing and maintaining the [~~diversion~~]
19 alternative to discipline program.

20 E. Files of nurses in the [~~diversion~~] alternative
21 to discipline program shall be [~~maintained in the board office~~
22 ~~and shall be~~] confidential except as required to be disclosed
23 pursuant to the Nurse Licensure Compact, when used to make a
24 report to the board concerning a nurse who is not cooperating
25 and complying with the [~~diversion~~] alternative to discipline

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1 program contract or, with written consent of a nurse, when used
2 for research purposes as long as the nurse is not specifically
3 identified. However, the files shall be subject to discovery
4 or subpoena. The confidential provisions of this subsection
5 are of no effect if the nurse admitted to the ~~[diversion]~~
6 alternative to discipline program leaves the state prior to the
7 completion of the program.

8 F. A person making a report to the board or to a
9 regional advisory committee regarding a nurse suspected of
10 practicing nursing while ~~[habitually intemperate or]~~ addicted
11 to the use of habit-forming ~~[drugs]~~ substances or making a
12 report of a nurse's progress or lack of progress in
13 rehabilitation shall be immune from civil action for defamation
14 or other cause of action resulting from such reports if the
15 reports are made in good faith and with some reasonable basis
16 in fact.

17 G. A person admitted to the ~~[diversion]~~ alternative
18 to discipline program for chemically dependent nurses who fails
19 to comply with the provisions of this section or with the rules
20 and regulations adopted by the board pursuant to this section
21 or with the written ~~[diversion]~~ alternative to discipline
22 program contract or with any amendments to the written
23 ~~[diversion]~~ alternative to discipline program contract may be
24 subject to disciplinary action in accordance with Section
25 61-3-28 NMSA 1978."

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1 SECTION 14. A new section of the Nursing Practice Act is
2 enacted to read:

3 "[NEW MATERIAL] EXPUNGEMENT OF DISCIPLINARY ACTION.--

4 A. The board by rule shall adopt a system of
5 expungement for nurses disciplined under this section.

6 B. To be eligible for expungement, a nurse shall
7 successfully complete:

8 (1) the requirements of the disciplinary order
9 imposed by the board;

10 (2) the terms of any settlement; or

11 (3) any alternative dispute resolution.

12 C. The board may condition the availability of
13 expungement on the:

14 (1) absence of repeat offenses for a defined
15 term of sixteen years; or

16 (2) seriousness of the offense as determined
17 by the sanction level of prior discipline.

18 D. Disciplinary orders and all related
19 investigatory documents, including previously filed formal
20 charges expunged from a nurse's record, are void and are not
21 subject to disclosure, discovery, subpoena or other means of
22 legal compulsion for release and are not subject to public
23 disclosure pursuant to the Inspection of Public Records Act.

24 E. A nurse whose disciplinary record has been
25 expunged may state in response to inquiry that expunged

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1 disciplinary records do not exist.

2 F. If the board determines the cost of expungement
3 justifies the imposition of fees on eligible nurses, the board
4 shall not impose cost-prohibitive fees for expungement.

5 G. The board shall tender a report of expungement
6 to the national practitioner data bank for nurses who qualify
7 for expungement under this section and board rules."

8 SECTION 15. A new section of the Nursing Practice Act is
9 enacted to read:

10 "[NEW MATERIAL] USE OF "NURSE" TITLE.--Only a person who
11 is issued a license as a registered nurse, licensed practical
12 nurse, certified nurse practitioner, clinical nurse specialist
13 or certified registered nurse anesthetist under the Nursing
14 Practice Act may use the word "nurse" in connection with the
15 person's name."

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