

HOUSE BILL 178

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

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and Janelle Anyanonu and Dayan Hochman-Vigil

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO HEALTH; AMENDING SECTIONS OF THE NURSING PRACTICE ACT TO CLARIFY THE SCOPE OF PRACTICE FOR DIFFERENT CATEGORIES OF LICENSED NURSES REGARDING THE ADMINISTRATION OF GENERAL ANESTHESIA, ANESTHETICS AND SEDATIVES; MAKING CHANGES TO THE LICENSING PROCESS; EXPANDING THE POWERS AND DUTIES OF THE BOARD OF NURSING; MODIFYING THE ADMINISTRATION OF CERTAIN DISCIPLINARY PROCESSES; REQUIRING THE CONFIDENTIALITY OF COMMUNICATIONS RELATING TO POTENTIAL DISCIPLINARY ACTIONS.

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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 certified clinical nurse specialists;

B. "advanced practice registered nurse" means a certified nurse practitioner, certified registered nurse anesthetist or certified clinical nurse specialist licensed pursuant to the Nursing Practice Act;

C. "anesthetics" means a substance that causes the entire or partial loss of the feeling of pain, temperature or other sensations, with or without the loss of consciousness, including topical, local or intravenous anesthetics but excluding general anesthesia;

D. "artificial intelligence" means a broad category of existing, emerging and future digital technologies that involves using algorithms to drive the behavior of agents such

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as software programs, machines and robotics;

[B-] E. "board" means the board of nursing;

[G-] F. "certified hemodialysis technician" means a person who is certified by the board to assist in the direct care of a patient undergoing hemodialysis, under the supervision and at the direction of a registered nurse or a licensed practical nurse, according to the rules adopted by the board;

[D-] G. "certified medication aide" means a person who is certified by the board to administer medications under the supervision and at the direction of a registered nurse or a licensed practical nurse, according to the rules adopted by the board;

[E-] H. "certified nurse practitioner" means a registered nurse who is licensed by the board for advanced practice as a certified nurse practitioner and whose name and pertinent information are entered on the list of certified nurse practitioners maintained by the board;

[F-] I. "certified registered nurse anesthetist" means a registered nurse who is licensed by the board for advanced practice as a certified registered nurse anesthetist and whose name and pertinent information are entered on the list of certified registered nurse anesthetists maintained by the board;

[G-] J. "certified clinical nurse specialist" means

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a registered nurse who is licensed by the board for advanced practice as a certified clinical nurse specialist and whose name and pertinent information are entered on the list of certified clinical nurse specialists maintained by the board;

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

L. "general anesthesia" means a drug-induced loss of consciousness where:

(1) patients are not arousable, even by painful stimulation;

(2) the ability to maintain an adequate airway and respiratory function is affected; and

(3) the cardiovascular function may be impaired;

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

[J.] N. "licensed practical nursing" means the practice of a directed scope of nursing requiring basic

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

- (1) contributing to the assessment of the health status of individuals, families and communities;
- (2) participating in the development and modification of the plan of care;
- (3) implementing appropriate aspects of the plan of care commensurate with education and verified competence;
- (4) collaborating with other health care professionals in the management of health care; and
- (5) participating in the evaluation of responses to interventions;

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

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

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

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

- (1) initiating and maintaining comfort measures;
- (2) promoting and supporting optimal human functions and responses;
- (3) establishing an environment conducive to well-being or to the support of a dignified death;
- (4) collaborating on the health care regimen;
- (5) administering medications and performing treatments prescribed by a person authorized in this state or in any other state in the United States to prescribe them;
- (6) recording and reporting nursing observations, assessments, interventions and responses to health care;
- (7) providing counseling and health teaching;

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

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

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

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

(2) establishing a nursing diagnosis;

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

(4) developing a plan of care;

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

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

(7) evaluating responses to interventions;

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

(9) managing and supervising the practice of

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nursing;

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

(11) conducting nursing research;

[~~Θ~~] S. "registered nurse" means a nurse who practices professional registered nursing and whose name and pertinent information are entered in the register of licensed registered nurses maintained by the board or a nurse who practices professional registered nursing pursuant to a multistate licensure privilege as provided in the Nurse Licensure Compact;

[~~P~~] T. "scope of practice" means the parameters within which nurses practice based upon education, experience, licensure, certification and expertise; [~~and~~

~~Q~~] U. "sedation" means the administration of medication to produce various levels of calmness, relaxation or sleep, including:

(1) minimum sedation, during which a patient responds normally to verbal commands and may have impaired cognitive function or coordination and respiratory and cardiovascular functions remain stable;

(2) moderate sedation, during which a patient responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation; respiratory functions remain stable; and cardiovascular functions are usually



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maintained;

(3) deep sedation, during which a patient cannot be easily aroused but responds purposefully, following repeated or painful stimulation; respiratory functions may be impaired, requiring assistance in maintaining the airway, including intubation and mechanical ventilation; and cardiovascular functions are usually maintained; or

(4) palliative sedation, an end-of-life intervention used to provide a patient with relief of symptoms that cannot be controlled in a tolerable time frame despite the use of therapies and that are unlikely to be controlled by further therapies without excessive, intolerable, acute or chronic side effects or complications, but not to intentionally hasten death; and

V. "training program" means an educational program approved by the board."

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

"61-3-6. ADMINISTRATION OF ANESTHETICS, SEDATIVES AND GENERAL ANESTHESIA.--~~[It is unlawful for any person, other than a person licensed in New Mexico to practice medicine, osteopathy or dentistry or]~~

A. A currently licensed certified registered nurse anesthetist [~~to~~] may administer [anesthetics] general anesthesia to any person. [~~Nothing in this section prohibits]~~

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B. A ~~[person]~~ registered nurse currently licensed pursuant to the Nursing Practice Act ~~[from using hypnosis or from administering local]~~ may, upon the successful completion of required training programs, administer anesthetics ~~HHHC→~~~~or←~~HHHC HHHC→, as ordered by a licensed physician or independent provider or per employing organization protocol, up to and including~~←~~HHHC moderate sedation to any person."

SECTION 3. Section 61-3-9 NMSA 1978 (being Laws 1968, Chapter 44, Section 6, as amended) is amended to read:

"61-3-9. BOARD MEETINGS--QUORUM--OFFICERS.--

A. The board shall annually elect a ~~[chairman]~~ chair, vice ~~[chairman]~~ chair and secretary from its entire membership.

B. The board shall meet at least once every three months. Special meetings may be called by the ~~[chairman]~~ chair and shall be called upon the written request of three or more members of the board. Notification of special meetings shall be made by certified mail unless such notice is waived by the entire board and noted in the minutes. Notice of all regular meetings shall be made by regular mail at least ten days prior to the meeting, and copies of the minutes of all meetings shall be mailed to each board member within thirty days after any meeting.

C. A majority of the board, including at least one officer, constitutes a quorum."

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SECTION 4. Section 61-3-10 NMSA 1978 (being Laws 1968, Chapter 44, Section 7, as amended) is amended to read:

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

A. shall promulgate rules in accordance with the State Rules Act as necessary to enable it to carry into effect the provisions of the Nursing Practice Act and to maintain high standards of practice;

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

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

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

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

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

G. shall conduct hearings upon charges related to

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an applicant or discipline of a licensee or the denial, suspension or revocation of a license in accordance with the procedures of the Uniform Licensing Act;

H. shall cause the prosecution of persons violating the Nursing Practice Act and have the power to incur such expense as is necessary for the prosecution;

I. shall keep a record of all proceedings;

J. shall make an annual report to the governor;

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

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

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

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competence;

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

O. may promulgate rules designed to maintain an inactive status listing for registered nurses and licensed practical nurses, including designating an inactive reserve category for registered nurses and licensed practical nurses for activation during an emergency for limited functions at no cost to the nurse;

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

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

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

S. shall promulgate rules establishing standards for authorizing prescriptive authority to certified nurse

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practitioners, certified clinical nurse specialists and certified registered nurse anesthetists; [~~and~~]

T. shall determine by rule the states and territories of the United States or the District of Columbia from which it will not accept an applicant for expedited licensure and shall determine any foreign countries from which it will accept an applicant for expedited licensure. The board shall post the lists of unapproved and approved licensing jurisdictions on the board's website. The list of disapproved licensing jurisdictions shall include the specific reasons for disapproval. The lists shall be reviewed annually to determine if amendments to the rule are warranted;

U. shall promulgate a rule creating a retired registered nurse license category without a licensing fee for retired registered nurses who can serve on advisory and policymaking community and nonprofit organization boards;

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

W. shall develop and maintain a system that assists all schools of nursing with the coordination of pre-licensure clinical placements;

~~HHHC→X. shall provide a nurse applying for a first-time license a single-state license; and upon renewal, a nurse may apply for a multistate license for an additional fee; and←HHHC~~

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HHHC→X. shall provide a nurse applying for a first-time license, or upon renewal of a license, the option for a single or multistate license, which may incur an additional fee; and←HHHC

Y. shall promulgate rules establishing standards for the use of artificial intelligence in nursing."

SECTION 5. Section 61-3-14 NMSA 1978 (being Laws 1968, Chapter 44, Section 11, as amended) is amended to read:

"61-3-14. LICENSURE OF REGISTERED NURSES--BY EXAMINATION--EXPEDITED LICENSURE.--

A. Applicants for licensure by examination shall be required to pass the national licensing examination for registered nurses. [The] An applicant who successfully passes the examination and submits a completed application may be issued by the board a license to practice as a registered nurse.

B. The board shall issue an expedited license to practice professional registered nursing without an examination to an applicant who has been duly licensed in another licensing jurisdiction and holds a valid, unrestricted license and is in good standing with the licensing board in that licensing jurisdiction. The board shall expedite the issuance of a license in accordance with Section 61-1-31.1 NMSA 1978 within thirty days. If the board issues an expedited license to a person whose prior licensing jurisdiction did not require

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examination, the board may require that person to pass an examination before applying for license renewal.

C. An applicant licensed under the laws of a territory or foreign country shall demonstrate proficiency in English."

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

"61-3-16. FEES FOR LICENSURE AS A REGISTERED NURSE.-- Except as provided in Section 61-1-34 NMSA 1978, an applicant for licensure as a registered nurse shall pay the following nonrefundable fees:

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

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

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

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



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licensure; and

E. the board may waive the fee for an initial license for a registered nurse who has graduated from a New Mexico public school of nursing."

SECTION 7. Section 61-3-19 NMSA 1978 (being Laws 1968, Chapter 44, Section 16, as amended) is amended to read:

"61-3-19. LICENSURE OF LICENSED PRACTICAL NURSES--BY EXAMINATION--BY EXPEDITED LICENSURE.--

A. Applicants for licensure by examination shall be required to pass the national licensing examination for licensed practical nurses. ~~[The]~~ An applicant who passes the examination and submits a completed application may be issued a license by the board ~~[a license]~~ to practice as a licensed practical nurse.

B. The board shall issue an expedited license as a licensed practical nurse without an examination to an applicant who has been duly licensed in another licensing jurisdiction and holds a valid, unrestricted license and is in good standing with the licensing board in that licensing jurisdiction. The board shall expedite the issuance of a license in accordance with Section 61-1-31.1 NMSA 1978 within thirty days. If the board issues an expedited license to a person whose prior licensing jurisdiction did not require examination, the board may require that person to pass an examination before applying for license renewal.

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C. An applicant licensed under the laws of a territory or foreign country shall demonstrate proficiency in English.

D. The board may waive the fee for an initial license for an applicant who has graduated from a New Mexico public school of nursing."

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

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

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

(1) is a registered nurse;

(2) has successfully completed a program for the education and preparation of nurse practitioners; provided that, if the applicant is initially licensed by the board or a board in another jurisdiction after January 1, 2001, the program shall be at the master's level or higher;

(3) has successfully completed the national certifying examination in the applicant's specialty area; and

(4) is certified by a national nursing organization.

B. Certified nurse practitioners may:

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

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

(3) serve as a primary, acute, chronic, long-term and end-of-life health care provider and, as necessary, collaborate with licensed medical doctors, osteopathic physicians or [~~podiatrists~~] podiatric physicians.

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

D. Certified nurse practitioners who have fulfilled requirements for prescriptive authority may distribute to their patients dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act that have been prepared, packaged or fabricated by a registered pharmacist or doses of drugs that have been prepackaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act

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and the New Mexico Drug, Device and Cosmetic Act.

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

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

SECTION 9. Section 61-3-23.4 NMSA 1978 (being Laws 1991, Chapter 190, Section 16, as amended) is amended to read:

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

A. The board may license for advanced practice as a

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certified clinical nurse specialist an applicant who furnishes evidence satisfactory to the board that the applicant:

- (1) is a registered nurse;
  - (2) has a master's degree or doctoral degree in a defined clinical nursing specialty;
  - (3) has successfully completed a national certifying examination in the applicant's area of specialty;
- and
- (4) is certified by a national nursing organization.

B. Certified clinical nurse specialists may:

- (1) perform an advanced practice that is beyond the scope of practice of professional registered nursing;
- (2) make independent decisions in a specialized area of nursing practice using expert knowledge regarding the health care needs of the individual, family and community, collaborating as necessary with other members of the health care team when the health care need is beyond the scope of practice of the certified clinical nurse specialist; and
- (3) carry out therapeutic regimens in the area of specialty practice, including the prescription and distribution of dangerous drugs.

C. A certified clinical nurse specialist who has fulfilled the requirements for prescriptive authority in the

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area of specialty practice is authorized to prescribe, administer and distribute therapeutic measures, including dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act within the scope of specialty practice, including controlled substances pursuant to the Controlled Substances Act that have been prepared, packaged or fabricated by a registered pharmacist or doses of drugs that have been prepackaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act and the New Mexico Drug, Device and Cosmetic Act.

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

E. Certified clinical nurse specialists licensed by the board shall maintain certification in their specialty area.

F. The board shall issue an expedited license to an applicant without an examination if the person has been duly licensed as a certified clinical nurse specialist in another licensing jurisdiction and is in good standing with the licensing board in that licensing jurisdiction. The board shall expedite the issuance of the license in accordance with Section 61-1-31.1 NMSA 1978 within thirty days. If the board

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issues an expedited license to a person whose prior licensing jurisdiction did not require examination, the board may require that person to pass an examination before applying for license renewal. An applicant licensed under the laws of a territory or foreign country shall demonstrate proficiency in English."

SECTION 10. Section 61-3-24 NMSA 1978 (being Laws 1968, Chapter 44, Section 20, as amended) is amended to read:

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

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

B. Upon receipt of the application and, except as provided in Section 61-1-34 NMSA 1978, a fee, in an amount not to exceed [~~one hundred ten dollars (\$110)~~] one hundred fifty dollars (\$150), a license valid for two years shall be issued. Upon initial licensure, or upon renewal, a licensee may apply for a multistate license for an additional fee not to exceed fifty dollars (\$50.00).

C. Upon receipt of the application and any required fee, the board shall verify the licensee's eligibility for continued licensure and issue to the applicant a renewal license for two years.

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

SECTION 11. Section 61-3-28 NMSA 1978 (being Laws 1968, Chapter 44, Section 24, as amended) is amended to read:

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

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

- (1) is guilty of fraud or deceit in procuring or attempting to procure a license or certificate of registration;
- (2) is convicted of a felony;
- (3) is unfit or incompetent;
- (4) ~~[is intemperate or]~~ is addicted to the use of habit-forming ~~[drugs]~~ substances;

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(5) is mentally incompetent;

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

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

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

(9) uses conversion therapy on a minor.

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

C. All written and oral communications made by any person to the board relating to potential disciplinary action, including complaints made to the board, are confidential communications and are not public records for the purposes of

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the Public Records Act. All data, communications and information acquired, prepared or disseminated by the board relating to actual or potential disciplinary action or an investigation of complaints shall not be disclosed except to the extent necessary for:

- (1) carrying out the purposes of the board;
- (2) appealing the actions of the board to a court of law; or
- (3) referring the case to law enforcement agencies, national database clearinghouses or other licensing boards.

~~[G-]~~ D. Any person filing a complaint shall be immune from liability arising out of civil action if the complaint is filed with reasonable care.

~~[D-]~~ E. The board shall not initiate a disciplinary action more than two years after the date that it receives a complaint.

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

~~[F-]~~ G. The board may recover the costs associated with the investigation and disposition of a disciplinary

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proceeding from the nurse who is the subject of the proceeding if the nurse is practicing professional registered nursing or licensed practical nursing pursuant to a multistate licensure privilege as provided in the Nurse Licensure Compact.

[G-] H. As used in this section:

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

"Conversion therapy" does not mean:

(a) counseling or mental health services that provide acceptance, support and understanding of a person without seeking to change gender identity or sexual orientation; or

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

(2) "gender identity" means a person's self-perception, HJC→~~or perception of that person by another, of the person's identity as a male or female based upon the person's appearance, behavior or physical characteristics that are in~~

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~~accord or opposed to the person's physical anatomy, chromosomal sex or sex at birth~~←HJC HJC→based on the person's appearance, behavior or physical characteristics, that the person exhibits more masculinity or femininity whether or not it matches the person' gender or sex assigned at birth←HJC ;

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

(4) "sexual orientation" means HJC→heterosexuality, homosexuality or bisexuality, whether actual or perceived←HJC HJC→a person's physical, romantic or emotional attraction to persons of the same or different gender or the absence of any such attraction←HJC ."

SECTION 12. Section 61-3-29.1 NMSA 1978 (being Laws 1987, Chapter 285, Section 1, as amended) is amended to read:

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

A. The board shall establish [~~a diversion~~] an alternative to discipline program to rehabilitate nurses whose competencies may be impaired because of the [~~abuse of drugs or alcohol~~] use of habit-forming substances so that nurses can be treated and returned to or continue the practice of nursing in a manner that will benefit the public. The intent of the [~~diversion~~] alternative to discipline program is to develop a voluntary alternative to traditional disciplinary actions and

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an alternative to lengthy and costly investigations and administrative proceedings against such nurses, at the same time providing adequate safeguards for the public.

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

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

(1) establish criteria for continuance in the program;

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

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

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

(5) report violations to the board;

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

(7) coordinate educational programs and research related to ~~[chemically dependent]~~ nurses addicted to the use of habit-forming substances.

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

E. Files of nurses in the ~~[diversion]~~ alternative to discipline program shall be maintained in the board office and shall be confidential except as required to be disclosed pursuant to the Nurse Licensure Compact, when used to make a report to the board concerning a nurse who is not cooperating and complying with the ~~[diversion]~~ alternative to discipline program contract or, with written consent of a nurse, when used for research purposes as long as the nurse is not specifically identified. However, the files shall be subject to discovery or subpoena. The confidential provisions of this subsection are of no effect if the nurse admitted to the ~~[diversion]~~ alternative to discipline program leaves the state prior to the completion of the program.

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

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