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HOUSE BILL 337

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Danice R. Picraux

AN ACT

RELATING TO NURSING; EXPANDING THE PRACTICE OF CERTIFIED NURSE PRACTITIONERS AND CERTIFIED REGISTERED NURSE ANESTHETISTS; INCREASING CAPS ON THE FEES FOR REVIEW AND APPROVAL OF HEMODIALYSIS TECHNICIAN TRAINING PROGRAMS AND CERTIFIED MEDICATION AIDES PROGRAMS; PROVIDING FOR CRIMINAL BACKGROUND CHECKS; PROVIDING FOR TEMPORARY LICENSING OF NURSES; PROVIDING FOR CONSENT OF DIVERSION PROGRAM PARTICIPANTS FOR USE OF FILE INFORMATION; PROVIDING PENALTIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

Section 1. Section 61-3-2 NMSA 1978 (being Laws 1968, Chapter 44, Section 2, as amended) is amended to read:

"61-3-2. PURPOSE. -- The purpose of the Nursing Practice Act is to promote, preserve and protect the public health,

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1 safety and welfare by regulating the practice of nursing
2 [~~and~~], schools of nursing, hemodialysis technicians and
3 medication aides in the state."

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

6 "61-3-3. DEFINITIONS. --As used in the Nursing Practice
7 Act:

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

15 B. "board" means the board of nursing;

16 C. "certified nurse practitioner" means a
17 registered nurse who is licensed by the board for advanced
18 practice as a certified nurse practitioner and whose name and
19 pertinent information are entered on the list of certified
20 nurse practitioners maintained by the board;

21 D. "certified registered nurse anesthetist" means
22 a registered nurse who is licensed by the board for advanced
23 practice as a certified registered nurse anesthetist and whose
24 name and pertinent information are entered on the list of
25 certified registered nurse anesthetists maintained by the

. 134451. 2

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1 board;

2 E. "clinical nurse specialist" means a registered
3 nurse who is licensed by the board for advanced practice as a
4 clinical nurse specialist and whose name and pertinent
5 information are entered on the list of clinical nurse
6 specialists maintained by the board;

7 F. "collaboration" means the cooperative working
8 relationship with another health care provider in the
9 provision of patient care, and such collaborative practice
10 includes the discussion of patient diagnosis and cooperation
11 in the management and delivery of health care;

12 G. "emergency procedures" means airway and
13 vascular access procedures;

14 [~~G.~~] H. "licensed practical nurse" means a nurse
15 who practices licensed practical nursing and whose name and
16 pertinent information are entered in the register of licensed
17 practical nurses maintained by the board;

18 [~~H.~~] I. "licensed practical nursing" means the
19 practice of a directed scope of nursing requiring basic
20 knowledge of the biological, physical, social and behavioral
21 sciences and nursing procedures, which practice is at the
22 direction of a registered nurse, physician or dentist licensed
23 to practice in this state. This practice includes [~~but is not~~
24 ~~limited to~~]:

25 (1) contributing to the assessment of the

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1 health status of individuals, families and communities;

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

4 (3) implementing appropriate aspects of the
5 plan of care commensurate with education and verified
6 competence;

7 (4) collaborating with other health care
8 professionals in the management of health care; and

9 (5) participating in the evaluation of
10 responses to interventions;

11 [~~I.~~] J. "nursing diagnosis" means a clinical
12 judgment about individual, family or community responses to
13 actual or potential health problems or life processes, which
14 judgment provides a basis for the selection of nursing
15 interventions to achieve outcomes for which the person making
16 the judgment is accountable;

17 [~~J.~~] K. "practice of nursing" means assisting
18 individuals, families or communities in maintaining or
19 attaining optimal health, assessing and implementing a plan of
20 care to accomplish defined goals and evaluating responses to
21 care and treatment. This practice is based on specialized
22 knowledge, judgment and nursing skills acquired through
23 educational preparation in nursing and in the biological,
24 physical, social and behavioral sciences and includes [~~but is~~
25 ~~not limited to~~]:

. 134451. 2

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- 1 (1) initiating and maintaining comfort
2 measures;
- 3 (2) promoting and supporting optimal human
4 functions and responses;
- 5 (3) establishing an environment conducive to
6 well-being or to the support of a dignified death;
- 7 (4) collaborating on the health care regimen;
- 8 (5) administering medications and performing
9 treatments prescribed by a person authorized in this state or
10 in any other state in the United States to prescribe them;
- 11 (6) recording and reporting nursing
12 observations, assessments, interventions and responses to
13 health care;
- 14 (7) providing counseling and health teaching;
- 15 (8) delegating and supervising nursing
16 interventions that may be performed safely by others and are
17 not in conflict with the Nursing Practice Act; and
- 18 (9) maintaining accountability for safe and
19 effective nursing care;
- 20 ~~[K.]~~ L. "professional registered nursing" means
21 the practice of the full scope of nursing requiring
22 substantial knowledge of the biological, physical, social and
23 behavioral sciences and of nursing theory and may include
24 advanced practice pursuant to the Nursing Practice Act. This
25 practice includes ~~[but is not limited to]:~~

. 134451. 2

- 1 (1) assessing the health status of
- 2 individuals, families and communities;
- 3 (2) establishing a nursing diagnosis;
- 4 (3) establishing goals to meet identified
- 5 health care needs;
- 6 (4) developing a plan of care;
- 7 (5) determining nursing intervention to
- 8 implement the plan of care;
- 9 (6) implementing the plan of care
- 10 commensurate with education and verified competence;
- 11 (7) evaluating responses to interventions;
- 12 (8) teaching based on the theory and practice
- 13 of nursing;
- 14 (9) managing and supervising the practice of
- 15 nursing;
- 16 (10) collaborating with other health care
- 17 professionals in the management of health care; and
- 18 (11) conducting nursing research;
- 19 [~~E.~~] M "registered nurse" means a nurse who
- 20 practices professional registered nursing and whose name and
- 21 pertinent information are entered in the register of licensed
- 22 registered nurses maintained by the board; and
- 23 [~~M.~~] N. "scope of practice" means the parameters
- 24 within which nurses practice based upon education, experience,
- 25 licensure, certification and expertise. "

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1 Section 3. Section 61-3-5 NMSA 1978 (being Laws 1968,
2 Chapter 44, Section 4, as amended) is amended to read:

3 "61-3-5. LICENSE REQUIRED. --

4 A. No person shall use the title "nurse" unless
5 the person is licensed or has been licensed in the past as a
6 registered nurse or licensed practical nurse under the Nursing
7 Practice Act.

8 ~~[A.]~~ B. Unless licensed as a registered nurse
9 under the Nursing Practice Act, no person shall:

10 (1) practice professional nursing;

11 (2) use the title "registered nurse",
12 "professional nurse", "professional registered nurse" or the
13 abbreviation "R. N. " or any other abbreviation thereof or use
14 any other title, abbreviation, letters, figures, signs or
15 devices to indicate or imply that the person is a registered
16 nurse; or

17 (3) engage in a nursing specialty as defined
18 by the board.

19 ~~[B.]~~ C. Unless licensed as a licensed practical
20 nurse under the Nursing Practice Act, no person shall:

21 (1) practice licensed practical nursing; or

22 (2) use the title "licensed practical nurse"
23 or the abbreviation "L. P. N. " or any other abbreviation thereof
24 or use any other title, abbreviation, letters, figures, signs
25 or devices to indicate or imply that the person is a licensed

. 134451. 2

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1 practical nurse.

2 ~~[C.]~~ D. Unless licensed as a certified nurse
3 practitioner under the Nursing Practice Act, no person shall:

4 (1) practice as a certified nurse
5 practitioner; or

6 (2) use the title "certified nurse
7 practitioner" or the abbreviations "C. N. P. " or "N. P. " or any
8 other title, abbreviation, letters, figures, signs or devices
9 to indicate or imply that the person is a certified nurse
10 practitioner.

11 ~~[D.]~~ E. Unless licensed as a certified registered
12 nurse anesthetist under the Nursing Practice Act, no person
13 shall:

14 (1) practice as a nurse anesthetist; or
15 (2) use the title "certified registered nurse
16 anesthetist" or the abbreviation "C. R. N. A. " or any other
17 title, abbreviation, letters, figures, signs or devices to
18 indicate or imply that the person is a certified registered
19 nurse anesthetist.

20 ~~[E.]~~ F. Unless licensed as a clinical nurse
21 specialist under the Nursing Practice Act, no person shall:

22 (1) practice as a clinical nurse specialist;
23 or

24 (2) use the title "clinical nurse specialist"
25 or the abbreviation "C. N. S. " or any other title, abbreviation,

. 134451. 2

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1 letters, figures, signs or devices to indicate or imply that
2 the person is a clinical nurse specialist.

3 ~~[F-]~~ G. No licensed nurse shall be prohibited from
4 identifying himself or his licensure status. "

5 Section 4. Section 61-3-10.1 NMSA 1978 (being Laws 1993,
6 Chapter 61, Section 2, as amended) is amended to read:

7 "61-3-10.1. HEMODIALYSIS TECHNICIANS-- TRAINING
8 PROGRAMS-- CERTIFICATION. --

9 A. As used in this section:

10 (1) "hemodialysis technician" means a person
11 who is certified by the board to assist with the direct care
12 of a patient undergoing hemodialysis, including performing
13 arteriovenous punctures for dialysis access, injecting
14 intradermal lidocaine in preparation for dialysis access,
15 administering heparin bolus and connecting a dialysis access
16 to isotonic saline or heparinized isotonic saline according to
17 standards adopted by the board; and

18 (2) "training program" means an educational
19 program approved by the board for persons seeking
20 certification as hemodialysis technicians.

21 B. Unless certified as a hemodialysis technician
22 pursuant to this section, no person shall practice as a
23 hemodialysis technician or use the title "certified
24 hemodialysis technician", "hemodialysis technician" or other
25 title, abbreviation, letters, figures, signs or devices to

. 134451. 2

1 indicate or imply that the person is a hemodialysis
2 technician.

3 C. The board shall:

4 (1) maintain a permanent register of all
5 hemodialysis technicians;

6 (2) adopt rules and regulations that set
7 reasonable requirements for training programs, including
8 prescribing standards and approving curricula;

9 (3) provide for periodic evaluation of
10 training programs at least every two years;

11 (4) grant, deny or withdraw approval from
12 training programs for failure to meet prescribed standards;
13 and

14 (5) conduct hearings on charges relating to
15 discipline of a hemodialysis technician and may deny
16 certification, place a technician on probation or suspend or
17 revoke a certificate in accordance with the Uniform Licensing
18 Act.

19 D. Every applicant for certification as a
20 hemodialysis technician shall pay the required application
21 fee, submit written evidence of having completed a training
22 program and successfully complete a board-approved
23 examination. The board shall issue a certificate to any
24 person who fulfills the requirements for certification.

25 E. A certificate shall be renewed every two years

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1 by the last day of the hemodialysis technician's ~~[birth]~~
2 certification month upon payment of the required fee, proof of
3 employment as a hemodialysis technician and proof of having
4 met any continuing education requirements adopted by the
5 board.

6 F. The board shall set by rule the following
7 nonrefundable fees:

8 (1) ~~[for]~~ initial certification of a
9 hemodialysis technician by examination, not to exceed sixty
10 dollars (\$60.00);

11 (2) ~~[for]~~ renewal of certification of a
12 hemodialysis technician, not to exceed sixty dollars (\$60.00);

13 (3) ~~[for]~~ reactivation of a certificate of a
14 hemodialysis technician after failure to renew a certificate,
15 not to exceed thirty dollars (\$30.00);

16 (4) ~~[for]~~ initial review and approval of a
17 training program, not to exceed ~~[one hundred fifty dollars~~
18 ~~(\$150)]~~ three hundred dollars (\$300);

19 (5) ~~[for each]~~ subsequent review and approval
20 of a training program where the hemodialysis unit has changed
21 the program, not to exceed ~~[fifty dollars (\$50.00)]~~ one
22 hundred dollars (\$100);

23 (6) ~~[for each]~~ subsequent review and approval
24 of a training program when a change has been required by a
25 change in board policy, rules or regulations, not to exceed

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1 ~~[twenty-five dollars (\$25.00)]~~ fifty dollars (\$50.00); and

2 (7) ~~[for]~~ periodic evaluation of a training
3 program, not to exceed ~~[seventy-five dollars (\$75.00)]~~ one
4 hundred fifty dollars (\$150).

5 G. Each training program shall, through contract
6 or agreement, pay the board for administrative and other costs
7 associated with oversight of the program."

8 Section 5. Section 61-3-10.2 NMSA 1978 (being Laws 1991,
9 Chapter 209, Section 1, as amended) is amended to read:

10 "61-3-10.2. MEDICATION AIDES. --

11 A. This section shall permit the operation of a
12 program for certification of medication aides and medication
13 aide training programs in licensed intermediate care
14 facilities for the mentally retarded. The purpose of the
15 program is to effectuate a cost-containment and efficient
16 program for the administration of the medicaid program. It is
17 the intention of the legislature that costs of continuing the
18 program shall be provided through appropriate agreements
19 between the board and licensed intermediate care facilities
20 for the mentally retarded.

21 B. For the purposes of this section, "medication
22 aide" means a person who, under the supervision of a licensed
23 nurse in a licensed intermediate care facility for the
24 mentally retarded, is permitted to administer oral medications
25 according to the standards adopted by the board.

. 134451. 2

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1 C. Unless certified as a medication aide under the
2 Nursing Practice Act, no person shall:

- 3 (1) practice as a medication aide; or
4 (2) use the titles "certified medication
5 aide" or "medication aide" or any other title, abbreviation,
6 letters, figures, signs or devices to indicate or imply that
7 the person is a certified medication aide.

8 D. The board shall:

- 9 (1) maintain a permanent register of all
10 persons to whom certification to practice as a certified
11 medication aide is provided;
12 (2) adopt rules and regulations that set
13 reasonable requirements for medication aide educational or
14 training programs and certification that protect the health
15 and well-being of the mentally retarded while facilitating
16 low-cost access to medication services;
17 (3) adopt rules and regulations governing the
18 supervision of medication aides by licensed nurses, which
19 shall include [~~but not be limited to~~] standards for medication
20 aides and performance evaluations of medication aides; and
21 (4) conduct hearings upon charges relating to
22 discipline of a certified medication aide or the denial,
23 suspension or revocation of a medication aide certificate in
24 accordance with the Uniform Licensing Act.

25 E. Every applicant for certification as a

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1 medication aide shall pay the required application fee, submit
2 written evidence of having completed a board-approved program
3 for the certification of medication aides and successfully
4 complete a board-approved examination.

5 F. The board shall issue a certificate enabling a
6 person to function as a medication aide to any person who
7 fulfills the requirements for medication aides set by law.

8 G. Every certificate issued by the board to
9 practice as a medication aide shall be renewed every two years
10 by the last day of the medication aide's birth month and upon
11 payment of the required fee. The medication aide seeking
12 renewal shall submit proof of employment as a medication aide
13 and proof of having met any continuing education requirements
14 adopted by the board.

15 H. Applicants for certification or renewal of
16 certification as certified medication aides shall pay the
17 following fees:

18 (1) for initial certification by examination
19 or certification after a failure to renew timely an initial
20 certification, the fee shall be set by the board not to exceed
21 thirty dollars (\$30.00); and

22 (2) for renewal of certification, the fee
23 shall be set by the board not to exceed thirty dollars
24 (\$30.00).

25 I. The board shall:

. 134451. 2

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1 (1) prescribe standards and approve curricula
2 for educational or training programs preparing persons as
3 medication aides;

4 (2) set a reasonable fee for the review and
5 approval of educational or training programs for certification
6 as certified medication aides not to exceed [~~one hundred fifty~~
7 ~~dollars (\$150)~~] three hundred dollars (\$300) for each initial
8 review and approval or [~~fifty dollars (\$50.00)~~] one hundred
9 dollars (\$100) for each subsequent review and approval in case
10 of change or modification in a training program [~~except where~~
11 ~~the change or modification has been required by a change in~~
12 ~~board policy or board rules and regulations, in which case the~~
13 ~~fee for each review and approval shall not exceed twenty-five~~
14 ~~dollars (\$25.00)~~];

15 (3) provide for periodic evaluation at
16 intervals of no less than two years of educational or training
17 programs preparing persons for certification as certified
18 medication aides, including setting a reasonable fee for each
19 periodic evaluation, which shall not exceed [~~seventy-five~~
20 ~~dollars (\$75.00)~~] one hundred fifty dollars (\$150); and

21 (4) grant, deny or withdraw approval from
22 medication aide programs for failure to meet prescribed
23 standards; provided that in the event of a denial or
24 withdrawal of approval, none of the fees provided for in this
25 section shall be refundable. "

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1 Section 6. Section 61-3-13 NMSA 1978 (being Laws 1968,
2 Chapter 44, Section 10, as amended) is amended to read:

3 "61-3-13. QUALIFICATIONS FOR LICENSURE AS A REGISTERED
4 NURSE. -- Before being considered for licensure as a registered
5 nurse, either by endorsement or examination, under Section
6 61-3-14 NMSA 1978, an applicant shall:

7 A. furnish evidence satisfactory to the board that
8 the applicant has successfully completed an approved program
9 of nursing for licensure as a registered nurse and has
10 graduated or is eligible for graduation; and

11 B. at the cost to the applicant, provide the board
12 with fingerprints and other information necessary for a state
13 and national criminal background check. "

14 Section 7. Section 61-3-18 NMSA 1978 (being Laws 1968,
15 Chapter 44, Section 15, as amended) is amended to read:

16 "61-3-18. QUALIFICATIONS FOR LICENSURE AS A LICENSED
17 PRACTICAL NURSE. -- Before being considered for licensure as a
18 licensed practical nurse, either by endorsement or
19 examination, under Section 61-3-19 NMSA 1978, an applicant
20 shall:

21 A. furnish evidence satisfactory to the board that
22 the applicant has successfully completed an approved program
23 of nursing for licensure as a licensed practical nurse and has
24 graduated or is eligible for graduation; and

25 B. at the cost to the applicant, provide the board

. 134451. 2

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1 with fingerprints and other information necessary for a state
2 and national criminal background check. "

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

5 "61-3-23.2. CERTIFIED NURSE PRACTITIONER--
6 QUALIFICATIONS-- PRACTICE-- EXAMINATION-- ENDORSEMENT. --

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

10 (1) is a registered nurse;

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

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

19 (4) is certified by a national nursing
20 organization.

21 B. Certified nurse practitioners may:

22 (1) perform an advanced practice that is
23 beyond the scope of practice of professional registered
24 nursing; [~~and~~]

25 (2) [~~make independent~~] practice independently

. 134451. 2

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1 and make decisions regarding health care needs of the
2 individual, family or community and carry out health regimens,
3 including the prescription and [~~distributing~~] distribution of
4 dangerous drugs [~~including~~] and controlled substances included
5 in Schedules II through V of the Controlled Substances Act;

6 and

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

11 C. Certified nurse practitioners who have
12 fulfilled requirements for prescriptive authority may
13 prescribe in accordance with rules, regulations, guidelines
14 and formularies for individual certified nurse practitioners
15 promulgated by the board. [~~As used in this subsection,~~
16 ~~"prescriptive authority" means the ability of the certified~~
17 ~~nurse practitioner to practice independently, serve as a~~
18 ~~primary health care provider and as necessary collaborate with~~
19 ~~licensed medical doctors, osteopathic physicians or~~
20 ~~podiatrists.-]~~

21 D. Certified nurse practitioners who have
22 fulfilled requirements for prescriptive authority may
23 distribute to their patients dangerous drugs [~~including~~] and
24 controlled substances included in Schedules II through V of
25 the Controlled Substances Act, that have been prepared,

. 134451. 2

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1 packaged or fabricated by a registered pharmacist or doses of
2 drugs that have been prepackaged by a pharmaceutical
3 manufacturer in accordance with the Pharmacy Act and the New
4 Mexico Drug, Device and Cosmetic Act.

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

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

15 "61-3-23.3. CERTIFIED REGISTERED NURSE ANESTHETIST--
16 QUALIFICATIONS-- LICENSURE-- PRACTICE-- ENDORSEMENT. --

17 A. The board may license for advanced practice as
18 a certified registered nurse anesthetist an applicant who
19 furnishes evidence satisfactory to the board that the
20 applicant:

21 (1) is a registered nurse;

22 (2) has successfully completed a nurse
23 anesthesia education program accredited by the [~~American~~
24 ~~association of nurse anesthetists~~'] council on accreditation
25 of nurse anesthesia education programs; provided that if the

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1 applicant is initially licensed by the board or a board in
2 another jurisdiction after January 1, 2001, the program shall
3 be at a master's level or higher; and

4 (3) is certified by the [~~American association~~
5 ~~of nurse anesthetists~~'] council on certification of nurse
6 anesthetists.

7 B. A certified registered nurse anesthetist may
8 provide pre-operative, intra-operative and post-operative
9 anesthesia care and related services in accordance with the
10 current American association of nurse anesthetists' guidelines
11 for nurse anesthesia practice.

12 C. Certified registered nurse anesthetists shall
13 function [~~under the direction of and~~] in collaboration with a
14 licensed physician, osteopathic physician, dentist or
15 podiatrist licensed in New Mexico pursuant to Chapter 61,
16 Article 5A, 6, 8 or 10 NMSA 1978 in performing the advanced
17 practice of nurse anesthesia care. As used in this
18 subsection, "collaboration" means the process in which a
19 certified registered nurse anesthetist functions jointly with
20 a licensed physician, osteopathic physician, dentist or
21 podiatrist licensed in New Mexico pursuant to Chapter 61,
22 Article 5A, 6, 8 or 10 NMSA 1978 to deliver health care
23 services within the scope of the certified registered nurse
24 anesthetist's expertise. "Collaboration" includes systematic
25 formal planning and evaluation between the professionals

. 134451. 2

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1 involved in the collaborative practice arrangements.

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

17 E. A certified registered nurse anesthetist who
18 has fulfilled the requirements for prescriptive authority in
19 the area of anesthesia practice may prescribe in accordance
20 with rules, regulations and guidelines. Formularies developed
21 shall be based on the scope of practice and clinical setting
22 for certified registered nurse anesthetists. Formularies
23 shall be developed by the board of nursing in collaboration
24 with the board of medical examiners.

25 F. A certified registered nurse anesthetist

. 134451. 2

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1 licensed by the board shall maintain this certification with
2 the American association of nurse anesthetists' council on
3 certification."

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

6 "61-3-24. RENEWAL OF LICENSES. --

7 A. Any person licensed pursuant to the provisions
8 of the Nursing Practice Act who intends to continue practice
9 shall renew the license every two years by the end of the
10 applicant's [~~birth~~] renewal month except when on active
11 military duty during a military action.

12 B. At least six weeks before the end of the
13 [~~birth~~] renewal month, the board shall mail to the licensee an
14 application blank, which shall be returned to the board before
15 the end of the [~~birth~~] renewal month, together with proof of
16 completion of continuing education requirements as required by
17 the board and the renewal fee set by the board in an amount
18 not to exceed one hundred dollars (\$100).

19 C. Upon receipt of the application and fee, the
20 board shall verify the licensee's eligibility for continued
21 licensure and issue to the applicant a renewal license for two
22 years. Renewal shall render the holder a legal practitioner
23 of nursing for the period stated on the renewal license.

24 D. Applicants for renewal who have not been
25 actually engaged in nursing for [~~five~~] two years or more shall

. 134451. 2

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1 furnish the board evidence of having completed refresher
2 courses of continuing education as required by regulations
3 adopted by the board.

4 E. Any person who allows his license to lapse by
5 failure to secure renewal as provided in this section shall be
6 reinstated by the board on payment of the fee for the current
7 two years plus a reinstatement fee to be set by the board in
8 an amount that shall not exceed two hundred dollars (\$200),
9 provided that all requirements have been met. "

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

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

14 A. In accordance with the procedures contained in
15 the Uniform Licensing Act, the board may deny, revoke or
16 suspend any license held or applied for under the Nursing
17 Practice Act or reprimand or place a licensee on probation
18 upon grounds that the licensee or applicant:

19 (1) is guilty of fraud or deceit in procuring
20 or attempting to procure a license or certificate of
21 registration;

22 (2) is convicted of a felony;

23 (3) is unfit or incompetent;

24 (4) is intemperate or is addicted to the use
25 of habit-forming drugs;

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1 (5) is mentally incompetent;

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

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

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

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

21 C. Any person filing a sworn complaint shall be
22 immune from liability arising out of civil action if the
23 complaint is filed in good faith and without actual malice.

24 D. [~~Notwithstanding Section 61-1-3.1 NMSA 1978~~]
25 The board shall not initiate a disciplinary action more than

. 134451. 2

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1 two years after the date that it receives a sworn complaint.

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

8 Section 12. Section 61-3-29.1 NMSA 1978 (being Laws
9 1987, Chapter 285, Section 1, as amended) is amended to read:

10 "61-3-29.1. DIVERSION PROGRAM CREATED- - ADVISORY
11 COMMITTEE- - RENEWAL FEE- - REQUIREMENTS- - IMMUNITY FROM CIVIL
12 ACTIONS. - -

13 A. The board shall establish a diversion program
14 to rehabilitate nurses whose competencies may be impaired
15 because of the abuse of drugs or alcohol so that nurses can be
16 treated and returned to or continue the practice of nursing in
17 a manner that will benefit the public. The intent of the
18 diversion program is to develop a voluntary alternative to
19 traditional disciplinary actions and an alternative to lengthy
20 and costly investigations and administrative proceedings
21 against such nurses, at the same time providing adequate
22 safeguards for the public.

23 B. The board shall appoint one or more evaluation
24 committees, hereinafter called "regional advisory committees",
25 each of which shall be composed of members with expertise in

. 134451. 2

1 chemical dependency. At least one member shall be a
2 registered nurse. No current member of the board shall be
3 appointed to a regional advisory committee. The executive
4 officer of the board or his designee shall be the liaison
5 between each regional advisory committee and the board.

6 C. Each regional advisory committee shall function
7 under the direction of the board and in accordance with
8 regulations of the board. The regulations shall include
9 directions to a regional advisory committee to:

10 (1) establish criteria for continuance in the
11 program;

12 (2) develop a written diversion program
13 contract to be approved by the board that sets forth the
14 requirements that shall be met by the nurse and the conditions
15 under which the diversion program may be successfully
16 completed or terminated;

17 (3) recommend to the board in favor of or
18 against each nurse's discharge from the diversion program;

19 (4) evaluate each nurse's progress in
20 recovery and compliance with his diversion program contract;

21 (5) report violations to the board;

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

23 (7) coordinate educational programs and
24 research related to chemically dependent nurses.

25 D. The board may increase the renewal fee for each

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1 nurse in the state not to exceed twenty dollars (\$20.00) for
2 the purpose of implementing and maintaining the diversion
3 program.

4 E. Files of nurses in the diversion program shall
5 be maintained in the board office and shall be confidential
6 except ~~[for making]~~ when used to make a report to the board
7 concerning ~~[any]~~ a nurse who is not cooperating and complying
8 with the diversion program contract or, with written consent
9 of a nurse, when used for research purposes as long as the
10 nurse is not specifically identified. However, such files
11 shall be subject to discovery or subpoena. The confidential
12 provisions of this subsection are of no effect if the nurse
13 admitted to the diversion program leaves the state prior to
14 the completion of the program.

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

23 G. Any person admitted to the diversion program
24 for chemically dependent nurses who fails to comply with the
25 provisions of this section or with the rules and regulations

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1 adopted by the board pursuant to this section or with the
2 written diversion program contract or with any amendments to
3 the written diversion program contract may be subject to
4 disciplinary action in accordance with Section 61-3-28 NMSA
5 1978. "

6 Section 13. Section 61-3-30 NMSA 1978 (being Laws 1968,
7 Chapter 44, Section 26, as amended) is amended to read:

8 "61-3-30. VIOLATIONS--PENALTIES.--It is a [~~misdeemeanor~~]
9 felony for [~~any~~] a person, firm, association or corporation
10 to:

11 A. sell, fraudulently obtain or furnish [~~any~~] a
12 nursing diploma, license, examination or record or to aid or
13 abet therein;

14 B. practice professional nursing as defined by the
15 Nursing Practice Act unless exempted or duly licensed to do so
16 under the provisions of that act;

17 C. practice licensed practical nursing as defined
18 by the Nursing Practice Act unless exempted or duly licensed
19 to do so under the provisions of that act;

20 D. use in connection with his name [~~any~~] a
21 designation tending to imply that such person is a registered
22 nurse or a licensed practical nurse unless duly licensed under
23 the provisions of the Nursing Practice Act;

24 E. conduct a school of nursing or a course for the
25 education of professional or licensed practical nurses for

. 134451. 2

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1 licensing unless the school or course has been approved by the
2 board;

3 F. practice nursing after his license has lapsed
4 or been suspended or revoked. Such person shall be considered
5 an illegal practitioner;

6 G. employ unlicensed persons to practice as
7 registered nurses or as licensed practical nurses;

8 H. practice or employ a person to practice as a
9 certified registered nurse anesthetist, certified nurse
10 practitioner or clinical nurse specialist unless endorsed as a
11 certified registered nurse anesthetist, certified nurse
12 practitioner or clinical nurse specialist pursuant to the
13 Nursing Practice Act; or

14 I. otherwise violate ~~[any provisions]~~ a provision
15 of the Nursing Practice Act.

16 The board shall assist the proper legal authorities in
17 the prosecution of all persons ~~[violating the provisions]~~ who
18 violate a provision of the Nursing Practice Act. In
19 prosecutions under the Nursing Practice Act, it shall not be
20 necessary to prove a general course of conduct. Proof of a
21 single act, a single holding out or a single attempt
22 constitutes a violation, and, upon conviction, such person is
23 guilty of a fourth degree felony and shall be sentenced ~~[to be~~
24 ~~imprisoned in the county jail for a definite term not to~~
25 ~~exceed one year or to the payment of a fine of not more than~~

. 134451. 2

1 ~~one thousand dollars (\$1,000) or both~~ in accordance with the
2 provisions of Section 31-18-15 NMSA 1978. "

3 Section 14. A new section of the Nursing Practice Act is
4 enacted to read:

5 "[NEW MATERIAL] TEMPORARY LICENSURE. --An applicant for
6 nurse licensure pursuant to the Nursing Practice Act may be
7 issued a temporary license for a period not to exceed six
8 months or for a period of time necessary for the board to
9 ensure that the applicant has met the licensure requirements
10 set out in that act, whichever is less. "

11 Section 15. REPEAL. --Sections 61-3-15 and 61-3-20 NMSA
12 1978 (being Laws 1968, Chapter 44, Section 12 and Laws 1968,
13 Chapter 44, Section 17, as amended) are repealed.

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