

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 119

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Cynthia Nava

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO NURSING; AMENDING THE NURSING PRACTICE ACT TO UNIFY
THE SEVERAL MEDICATION AIDES PROGRAMS; AMENDING AND REPEALING
SECTIONS OF THE NMSA 1978.

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

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

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

A. ~~[This section shall permit the operation of]~~ A
statewide program for certification of medication aides and
medication aide training programs ~~[in licensed intermediate
care facilities for the mentally retarded. The purpose of the
program is to effectuate a cost-containment and efficient
program for the administration of the medicaid program. It is
the intention of the legislature that costs of continuing the~~

underscored material = new
[bracketed material] = delete

1 ~~program shall be provided through appropriate agreements~~
2 ~~between the board and licensed intermediate care facilities for~~
3 ~~the mentally retarded]~~ is created under the board of nursing.

4 B. For the purposes of this section, "certified
5 medication aide" means a person who, under the supervision of a
6 licensed nurse [~~in a licensed intermediate care facility for~~
7 ~~the mentally retarded]~~ is permitted to administer [~~oral]~~
8 medications according to the standards adopted by the board.

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

11 (1) practice as a certified medication aide;
12 or

13 (2) use the titles "certified medication aide"
14 or "medication aide" or any other title, abbreviation, letters,
15 figures, signs or devices to indicate or imply that the person
16 is a certified medication aide.

17 D. The board shall:

18 (1) maintain a permanent register of all
19 persons [~~to whom certification]~~ certified to practice as a
20 certified medication aide [~~is provided]~~;

21 (2) adopt rules [~~and regulations that set~~
22 ~~reasonable requirements]~~ for certified medication aide
23 [~~educational or training programs]~~ education and certification,
24 [~~that protect the health and well-being of the mentally~~
25 ~~retarded while facilitating low cost access to medication~~

. 153522. 4

underscored material = new
[bracketed material] = delete

1 ~~services]~~ including standards and curricula;

2 (3) ~~[withdraw approval from a medication aide~~
3 ~~training program or participant program for failure to maintain~~
4 ~~a current contract with the board or for failure to pay the~~
5 ~~administrative fee as provided in the contract;~~

6 (4)] adopt rules ~~[and regulations]~~ governing
7 the supervision of certified medication aides by licensed
8 nurses, ~~[which shall include, but not be limited to]~~ including
9 standards ~~[for medication aides]~~ and performance evaluations of
10 certified medication aides; ~~[and~~

11 (5)] (4) conduct disciplinary hearings ~~[upon~~
12 ~~charges relating to discipline]~~ of [a] certified medication
13 ~~[aide]~~ aides or on the denial, suspension or revocation of a
14 certified medication aide certificate in accordance with the
15 Uniform Licensing Act; and

16 (5) grant approval to a certified medication
17 aide training program that meets all requirements set by the
18 board and deny or withdraw approval from programs that fail to
19 meet prescribed standards or fail to maintain a current
20 contract with the board.

21 E. Every applicant for certification as a certified
22 medication aide shall pay the required application fee, submit
23 written evidence of having completed a board-approved program
24 for the certification of certified medication aides and
25 successfully complete a board-approved examination. The board

. 153522. 4

underscored material = new
[bracketed material] = delete

1 shall issue a certificate to any person who fulfills the
2 requirements for certification.

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

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

13 ~~[H. Applicants for certification or renewal of~~
14 ~~certification as certified medication aides shall pay the~~
15 ~~following]~~

16 G. The board shall set the following nonrefundable
17 fees:

18 (1) ~~[for]~~ initial certification by
19 examination, ~~[or certification after a failure to renew timely~~
20 ~~an initial certification, the fee shall be set by the board]~~
21 not to exceed ~~[thirty dollars (\$30.00)]~~ sixty dollars (\$60.00);
22 ~~[and]~~

23 (2) ~~[for]~~ renewal of certification, ~~[the fee~~
24 ~~shall be set by the board]~~ not to exceed ~~[thirty dollars~~
25 ~~(\$30.00)]~~ sixty dollars (\$60.00);

. 153522. 4

underscored material = new
[bracketed material] = delete

1 (3) reactivation of a lapsed certificate after
2 failure to renew a certificate or following board action, not
3 to exceed sixty dollars (\$60.00);

4 (4) initial review and approval of a training
5 program not to exceed three hundred dollars (\$300);

6 (5) subsequent review and approval of a
7 training program that has changed, not to exceed two hundred
8 dollars (\$200);

9 (6) subsequent review and approval of a
10 training program when a change has been required by a change in
11 board policy or rules, not to exceed fifty dollars (\$50.00);
12 and

13 (7) periodic evaluation of a training program,
14 not to exceed two hundred dollars (\$200).

15 ~~[I. The board shall:~~

16 ~~(1) prescribe standards and approve curricula~~
17 ~~for educational or training programs preparing persons as~~
18 ~~medication aides;~~

19 ~~(2) set a reasonable fee for the review and~~
20 ~~approval of educational or training programs for certification~~
21 ~~as certified medication aides not to exceed three hundred~~
22 ~~dollars (\$300) for each initial review and approval or one~~
23 ~~hundred dollars (\$100) for each subsequent review and approval~~
24 ~~in case of change or modification in a training program;~~

25 ~~(3) provide for periodic evaluation at~~

underscored material = new
[bracketed material] = delete

1 ~~intervals of no less than two years of educational or training~~
2 ~~programs preparing persons for certification as certified~~
3 ~~medication aides, including setting a reasonable fee for each~~
4 ~~periodic evaluation, which shall not exceed one hundred fifty~~
5 ~~dollars (\$150); and~~

6 ~~(4) grant, deny or withdraw approval from~~
7 ~~medication aide programs for failure to meet prescribed~~
8 ~~standards; provided that, in the event of a denial or~~
9 ~~withdrawal of approval, none of the fees provided for in this~~
10 ~~section shall be refundable.]"~~

11 Section 2. Section 61-3-29 NMSA 1978 (being Laws 1968,
12 Chapter 44, Section 25, as amended) is amended to read:

13 "61-3-29. EXCEPTIONS. -- The Nursing Practice Act shall not
14 apply to or affect:

15 A. gratuitous nursing by friends or members of the
16 family;

17 B. nursing assistance in case of emergencies;

18 C. nursing by students when enrolled in approved
19 schools of nursing or approved courses for the education of
20 professional or practical nurses when such nursing is part of
21 the educational program;

22 D. nursing in this state by a legally licensed
23 nurse of another state whose employment requires the nurse to
24 transport a patient or who is a camp nurse who accompanies and
25 cares for a patient temporarily residing in this state if the

. 153522. 4

underscored material = new
[bracketed material] = delete

1 nurse's practice in this state does not exceed three months and
2 the nurse does not claim to be licensed in this state;

3 E. nursing in this state by any person who is
4 employed by the United States government or any bureau,
5 division or agency thereof, while in the discharge of ~~[his]~~ the
6 person's official duties;

7 F. the practice of midwifery by any person other
8 than a registered nurse who is certified or licensed in this
9 state to practice midwifery;

10 G. any person working as a home health aide, unless
11 performing acts defined as professional nursing or practical
12 nursing pursuant to the Nursing Practice Act;

13 H. any nursing aide or orderly, unless performing
14 acts defined as professional nursing or practical nursing
15 pursuant to the Nursing Practice Act;

16 I. any registered nurse holding a current license
17 in another jurisdiction who is enrolled in any professional
18 course requiring nursing practice as a part of the educational
19 program; or

20 J. performance by a personal care provider in a
21 noninstitutional setting of bowel and bladder assistance for an
22 individual whom a health care provider certifies is stable, not
23 currently in need of medical care and able to communicate and
24 assess ~~[his]~~ the individual's own needs [~~or~~

25 ~~K. medication aides working in licensed~~

1 ~~intermediate care facilities for the mentally retarded or~~
2 ~~serving persons who are participating in the developmentally~~
3 ~~disabled medicaid waiver program and who have completed a~~
4 ~~board approved medication aide training program and who are~~
5 ~~certified by the board to administer routine oral medications,~~
6 ~~which may be expanded to include all medications except~~
7 ~~subcutaneous, intramuscular and intravenous injections, unless~~
8 ~~the medication aide is performing acts defined as professional~~
9 ~~or practical nursing under the Nursing Practice Act]. "~~

10 Section 3. REPEAL. -- Sections 61-3-10.3 and 61-3-10.4 NMSA
11 1978 (being Laws 1995, Chapter 117, Section 1 and Laws 2003,
12 Chapter 282, Section 2, as amended) are repealed.

13 - 8 -
14
15
16
17
18
19
20
21
22
23
24
25