

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 615

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

AN ACT

RELATING TO THE PRACTICE OF MEDICINE; PROVIDING FOR
COLLABORATION BETWEEN A PHYSICIAN ASSISTANT AND PHYSICIAN.

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

SECTION 1. Section 61-6-6 NMSA 1978 (being Laws 1973,
Chapter 361, Section 1, as amended) is amended to read:

"61-6-6. DEFINITIONS.--As used in Chapter 61, Article 6
NMSA 1978:

A. "approved postgraduate training program" means a
program approved by the accrediting council ~~[on]~~ for graduate
medical education of the American medical association or by the
board;

B. "board" means the New Mexico medical board;

C. "collaboration" means the process by which
physicians and physician assistants jointly contribute to the

1 health care and medical treatment of patients within their
2 respective scopes of practice and that does not require the
3 physical presence of the physician while services are being
4 rendered;

5 [G.] D. "licensed physician" means a medical doctor
6 licensed under the Medical Practice Act to practice medicine in
7 New Mexico;

8 [D.] E. "licensee" means a medical doctor,
9 physician assistant, polysomnographic technologist,
10 anesthesiologist assistant or naprapath licensed by the board
11 to practice in New Mexico;

12 [E.] F. "medical college or school in good
13 standing" means a board-approved medical college or school that
14 has as high a standard as that required by the association of
15 American medical colleges and the council on medical education
16 of the American medical association;

17 [F.] G. "medical student" means a student enrolled
18 in a board-approved medical college or school in good standing;

19 [G.] H. "physician assistant" means a health
20 professional who is licensed by the board to practice as a
21 physician assistant and who provides services to patients
22 [~~under the supervision and direction of~~] in collaboration with
23 a licensed physician;

24 [H.] I. "intern" means a first-year postgraduate
25 student upon whom a degree of doctor of medicine and surgery or

1 equivalent degree has been conferred by a medical college or
2 school in good standing;

3 ~~[F.]~~ J. "resident" means a graduate of a medical
4 college or school in good standing who is in training in a
5 board-approved and accredited residency training program in a
6 hospital or facility affiliated with an approved hospital and
7 who has been appointed to the position of "resident" or
8 "fellow" for the purpose of postgraduate medical training;

9 ~~[G.]~~ K. "the practice of medicine" consists of:

10 (1) advertising, holding out to the public or
11 representing in any manner that one is authorized to practice
12 medicine in this state;

13 (2) offering or undertaking to administer,
14 dispense or prescribe a drug or medicine for the use of another
15 person, except as authorized pursuant to a professional or
16 occupational licensing statute set forth in Chapter 61 NMSA
17 1978;

18 (3) offering or undertaking to give or
19 administer, dispense or prescribe a drug or medicine for the
20 use of another person, except as directed by a licensed
21 physician;

22 (4) offering or undertaking to perform an
23 operation or procedure upon a person;

24 (5) offering or undertaking to diagnose,
25 correct or treat in any manner or by any means, methods,

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1 devices or instrumentalities any disease, illness, pain, wound,
2 fracture, infirmity, deformity, defect or abnormal physical or
3 mental condition of a person;

4 (6) offering medical peer review, utilization
5 review or diagnostic service of any kind that directly
6 influences patient care, except as authorized pursuant to a
7 professional or occupational licensing statute set forth in
8 Chapter 61 NMSA 1978; or

9 (7) acting as the representative or agent of a
10 person in doing any of the things listed in this subsection;

11 [~~K.~~] L. "the practice of medicine across state
12 lines" means:

13 (1) the rendering of a written or otherwise
14 documented medical opinion concerning diagnosis or treatment of
15 a patient within this state by a physician located outside this
16 state as a result of transmission of individual patient data by
17 electronic, telephonic or other means from within this state to
18 the physician or the physician's agent; or

19 (2) the rendering of treatment to a patient
20 within this state by a physician located outside this state as
21 a result of transmission of individual patient data by
22 electronic, telephonic or other means from within this state to
23 the physician or the physician's agent;

24 [~~L.~~] M. "sexual contact" means touching the primary
25 genital area, groin, anus, buttocks or breast of a patient or

1 allowing a patient to touch another's primary genital area,
2 groin, anus, buttocks or breast in a manner that is commonly
3 recognized as outside the scope of acceptable medical practice;

4 ~~[M.]~~ N. "sexual penetration" means sexual
5 intercourse, cunnilingus, fellatio or anal intercourse, whether
6 or not there is any emission, or introducing any object into
7 the genital or anal openings of another in a manner that is
8 commonly recognized as outside the scope of acceptable medical
9 practice; and

10 ~~[N.]~~ O. "United States" means the fifty states, its
11 territories and possessions and the District of Columbia."

12 **SECTION 2.** Section 61-6-7 NMSA 1978 (being Laws 1973,
13 Chapter 361, Section 3, as amended) is amended to read:

14 "61-6-7. SHORT TITLE--LICENSURE AS A PHYSICIAN
15 ASSISTANT--SCOPE OF PRACTICE--BIENNIAL REGISTRATION OF
16 SUPERVISION--LICENSE RENEWAL--FEES.--

17 A. Sections 61-6-7 through 61-6-10 NMSA 1978 may be
18 cited as the "Physician Assistant Act".

19 B. The board may license as a physician assistant a
20 qualified person who has graduated from a physician assistant
21 ~~[or surgeon assistant]~~ program accredited by the national
22 accrediting body as established by rule and has passed a
23 physician assistant national certifying examination as
24 established by rule. The board may also license as a physician
25 assistant a person who passed the physician assistant national

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1 certifying examination administered by the national commission
2 on certification of physician assistants prior to 1986.

3 C. A person shall not perform, attempt to perform
4 or hold ~~[himself]~~ the person's own self out as a physician
5 assistant without first applying for and obtaining a license
6 from the board ~~[and without registering his supervising~~
7 ~~licensed physician in accordance with board rules]~~.

8 D. Physician assistants may prescribe, administer
9 and distribute dangerous drugs other than controlled substances
10 in Schedule I of the Controlled Substances Act pursuant to
11 rules adopted by the board after consultation with the board of
12 pharmacy if the prescribing, administering and distributing are
13 done ~~[under the direction of a supervising]~~ in collaboration
14 with a licensed physician ~~[and within the parameters of a~~
15 ~~board approved formulary and guidelines established under~~
16 ~~Subsection C of Section 61-6-9 NMSA 1978]~~. The distribution
17 process shall comply with state laws concerning prescription
18 packaging, labeling and recordkeeping requirements. ~~[Physician~~
19 ~~assistants shall not otherwise dispense dangerous drugs or~~
20 ~~controlled substances.]~~

21 E. A physician assistant shall perform ~~[only the~~
22 ~~acts and duties assigned to the physician assistant by a~~
23 ~~supervising licensed physician that are within the scope of~~
24 ~~practice of the supervising]~~ medical services in collaboration
25 with a licensed physician.

1 F. An applicant for licensure as a physician
 2 assistant shall complete application forms supplied by the
 3 board and shall pay a licensing fee as provided in Section
 4 61-6-19 NMSA 1978.

5 G. A physician assistant shall biennially submit
 6 proof of current certification by the national commission on
 7 certification of physician assistants and shall renew the
 8 license [~~and registration of supervision~~] of the physician
 9 assistant with the board. Applications for licensure [~~or~~
 10 ~~registration of supervision~~] shall include the applicant's
 11 name, current address [~~the name and office address of the~~
 12 ~~supervising licensed physician~~] and such other additional
 13 information as the board deems necessary.

14 [~~H. Before starting work, a physician assistant~~
 15 ~~shall ensure that the supervising licensed physician of the~~
 16 ~~physician assistant is registered by the board. The license of~~
 17 ~~a physician assistant shall only be valid when the physician~~
 18 ~~assistant works under the supervision of a board-registered~~
 19 ~~licensed physician.~~

20 I.] H. Each biennial renewal of licensure shall be
 21 accompanied by a fee as provided in Section 61-6-19 NMSA 1978."

22 SECTION 3. Section 61-6-9 NMSA 1978 (being Laws 1973,
 23 Chapter 361, Section 5, as amended) is amended to read:

24 "61-6-9. PHYSICIAN ASSISTANTS--RULES.--The board may
 25 adopt and enforce reasonable rules for:

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1 A. education, skill and experience for licensure of
2 a person as a physician assistant and providing forms and
3 procedures for biennial licensure [~~and registration of~~
4 ~~supervision by a licensed physician~~];

5 B. examining and evaluating an applicant for
6 licensure as a physician assistant as to skill, knowledge and
7 experience of the applicant in the field of medical care;

8 C. establishing when and for how long physician
9 assistants are permitted to prescribe, administer, dispense and
10 distribute dangerous drugs other than controlled substances in
11 Schedule I of the Controlled Substances Act pursuant to rules
12 adopted by the board after consultation with the board of
13 pharmacy;

14 ~~[D. allowing a supervising licensed physician to~~
15 ~~temporarily delegate supervisory responsibilities for a~~
16 ~~physician assistant to another licensed physician;~~

17 ~~E. allowing a physician assistant to temporarily~~
18 ~~serve under the supervision of a licensed physician other than~~
19 ~~the supervising licensed physician of record;]~~ and

20 [F.] D. carrying out all other provisions of the
21 Physician Assistant Act."

22 SECTION 4. Section 61-6-10 NMSA 1978 (being Laws 1973,
23 Chapter 361, Section 6, as amended) is amended to read:

24 "61-6-10. [~~SUPERVISING~~] LICENSED PHYSICIAN COLLABORATING
25 WITH A PHYSICIAN ASSISTANT--RESPONSIBILITY.--

1 A. ~~[As a condition of licensure, all physician~~
 2 ~~assistants practicing in New Mexico shall inform the board of~~
 3 ~~the name of the licensed physician under whose supervision they~~
 4 ~~will practice.] All [supervising] physicians collaborating with~~
 5 ~~a physician assistant shall be licensed under the Medical~~
 6 ~~Practice Act [and shall be approved by the board].~~

7 B. Every licensed physician ~~[supervising]~~
 8 collaborating with a licensed physician assistant shall be
 9 individually responsible and liable for the performance of the
 10 acts and omissions delegated to the physician assistant.
 11 Nothing in this section shall be construed to relieve the
 12 physician assistant of responsibility and liability for the
 13 acts and omissions of the physician assistant.

14 C. A physician assistant shall ~~[be supervised by]~~
 15 collaborate with a physician ~~[as approved by the board]."~~

16 SECTION 5. Section 61-6-17 NMSA 1978 (being Laws 1973,
 17 Chapter 361, Section 8, as amended) is amended to read:

18 "61-6-17. EXCEPTIONS TO ACT.--The Medical Practice Act
 19 shall not apply to or affect:

- 20 A. gratuitous services rendered in cases of
 21 emergency;
- 22 B. the domestic administration of family remedies;
- 23 C. the practice of midwifery as regulated in this
 24 state;
- 25 D. commissioned medical officers of the armed

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1 forces of the United States and medical officers of the United
2 States public health service or [~~the veterans administration~~
3 ~~of~~] the United States department of veterans affairs in the
4 discharge of their official duties or within federally
5 controlled facilities; provided that such persons who hold
6 medical licenses in New Mexico shall be subject to the
7 provisions of the Medical Practice Act and provided that all
8 such persons shall be fully licensed to practice medicine in
9 one or more jurisdictions of the United States;

10 E. the practice of medicine by a physician,
11 unlicensed in New Mexico, who performs emergency medical
12 procedures in air or ground transportation on a patient from
13 inside of New Mexico to another state or back, provided the
14 physician is duly licensed in that state;

15 F. the practice, as defined and limited under their
16 respective licensing laws, of:

- 17 (1) osteopathy;
- 18 (2) dentistry;
- 19 (3) podiatry;
- 20 (4) nursing;
- 21 (5) optometry;
- 22 (6) psychology;
- 23 (7) chiropractic;
- 24 (8) pharmacy;
- 25 (9) acupuncture and oriental medicine; or

1 (10) physical therapy;

2 G. an act, task or function performed by a
3 physician assistant [~~at the direction of and under the~~
4 ~~supervision of~~] in collaboration with a licensed physician,
5 when:

6 (1) the physician assistant is currently
7 licensed by the board;

8 (2) the act, task or function is performed [~~at~~
9 ~~the direction of and under the supervision of~~] in collaboration
10 with a licensed physician in accordance with rules promulgated
11 by the board; and

12 (3) the acts of the physician assistant are
13 [~~within the scope of duties assigned or delegated by the~~
14 ~~supervising~~] in collaboration with a licensed physician and the
15 acts are within the scope of the physician assistant's
16 training;

17 H. an act, task or function of laboratory
18 technicians or technologists, x-ray technicians, nurse
19 practitioners, medical or surgical assistants or other
20 technicians or qualified persons permitted by law or
21 established by custom as part of the duties delegated to them
22 by:

23 (1) a licensed physician or a hospital, clinic
24 or institution licensed or approved by the public health
25 division of the department of health or an agency of the

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1 federal government; or

2 (2) a health care program operated or financed
3 by an agency of the state or federal government;

4 I. a properly trained medical or surgical assistant
5 or technician or professional licensee performing under the
6 physician's employment and direct supervision or a visiting
7 physician or surgeon operating under the physician's direct
8 supervision a medical act that a reasonable and prudent
9 physician would find within the scope of sound medical judgment
10 to delegate if, in the opinion of the delegating physician, the
11 act can be properly and safely performed in its customary
12 manner and if the person does not hold [~~himself~~] the person's
13 own self out to the public as being authorized to practice
14 medicine in New Mexico. The delegating physician shall remain
15 responsible for the medical acts of the person performing the
16 delegated medical acts;

17 J. the practice of the religious tenets of a church
18 in the ministrations to the sick or suffering by mental or
19 spiritual means as provided by law; provided that the Medical
20 Practice Act shall not be construed to exempt a person from the
21 operation or enforcement of the sanitary and quarantine laws of
22 the state;

23 K. the acts of a physician licensed under the laws
24 of another state of the United States who is the treating
25 physician of a patient and orders home health or hospice

1 services for a resident of New Mexico to be delivered by a home
2 and community support services agency licensed in this state;
3 provided that a change in the condition of the patient shall be
4 physically reevaluated by the treating physician in the
5 treating physician's jurisdiction or by a licensed New Mexico
6 physician;

7 L. a physician licensed to practice under the laws
8 of another state who acts as a consultant to a New Mexico-
9 licensed physician on an irregular or infrequent basis, as
10 defined by rule of the board; and

11 M. a physician who engages in the informal practice
12 of medicine across state lines without compensation or
13 expectation of compensation; provided that the practice of
14 medicine across state lines conducted within the parameters of
15 a contractual relationship shall not be considered informal and
16 is subject to licensure and rule by the board."

17 **SECTION 6.** Section 61-6-19 NMSA 1978 (being Laws 1989,
18 Chapter 269, Section 15, as amended) is amended to read:

19 "61-6-19. FEES.--

20 A. The board shall impose the following fees:

21 (1) an application fee not to exceed four
22 hundred dollars (\$400) for licensure by endorsement as provided
23 in Section 61-6-13 NMSA 1978;

24 (2) an application fee not to exceed four
25 hundred dollars (\$400) for licensure by examination as provided

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1 in Section 61-6-11 NMSA 1978;

2 (3) a triennial renewal fee not to exceed four
3 hundred fifty dollars (\$450);

4 (4) a fee of twenty-five dollars (\$25.00) for
5 placing a physician's license or a physician assistant's
6 license on inactive status;

7 (5) a late fee not to exceed one hundred
8 dollars (\$100) for physicians who renew their license within
9 forty-five days after the required renewal date;

10 (6) a late fee not to exceed two hundred
11 dollars (\$200) for physicians who renew their licenses between
12 forty-six and ninety days after the required renewal date;

13 (7) a reinstatement fee not to exceed six
14 hundred dollars (\$600) for reinstatement of a revoked,
15 suspended or inactive license;

16 (8) a reasonable administrative fee for
17 verification and duplication of license or registration and
18 copying of records;

19 (9) a reasonable publication fee for the
20 purchase of a publication containing the names of all
21 practitioners licensed under the Medical Practice Act;

22 (10) an impaired physician fee not to exceed
23 one hundred fifty dollars (\$150) for a three-year period;

24 (11) an interim license fee not to exceed one
25 hundred dollars (\$100);

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1 (12) a temporary license fee not to exceed one
2 hundred dollars (\$100);

3 (13) a postgraduate training license fee not
4 to exceed fifty dollars (\$50.00) annually;

5 (14) an application fee not to exceed one
6 hundred fifty dollars (\$150) for physician assistants applying
7 for initial licensure;

8 (15) a licensure fee not to exceed one hundred
9 fifty dollars (\$150) for physician assistants biennial
10 licensing [~~and registration of supervising licensed physician~~];

11 (16) a late fee not to exceed fifty dollars
12 (\$50.00) for physician assistants who renew their licensure
13 within forty-five days after the required renewal date;

14 (17) a late fee not to exceed seventy-five
15 dollars (\$75.00) for physician assistants who renew their
16 licensure between forty-six and ninety days after the required
17 renewal date;

18 (18) a reinstatement fee not to exceed one
19 hundred dollars (\$100) for physician assistants who reinstate
20 an expired license;

21 [~~(19) a processing fee not to exceed fifty~~
22 ~~dollars (\$50.00) for each change of a supervising licensed~~
23 ~~physician for a physician assistant;~~

24 ~~(20)] (19) a fee not to exceed three hundred~~

25 dollars (\$300) annually for a physician supervising a clinical

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1 pharmacist;

2 ~~[(21)]~~ (20) an application and renewal fee for
3 a telemedicine license not to exceed four hundred dollars
4 (\$400);

5 ~~[(22)]~~ (21) a reasonable administrative fee,
6 not to exceed the current cost of application for a license,
7 that may be charged for reprocessing applications and renewals
8 that include minor but significant errors and that would
9 otherwise be subject to investigation and possible disciplinary
10 action; and

11 ~~[(23)]~~ (22) a reasonable fee as established by
12 the department of public safety for nationwide and statewide
13 criminal history screening of applicants and licensees.

14 B. All fees are nonrefundable and shall be used by
15 the board to carry out its duties efficiently."

underscored material = new
[bracketed material] = delete