

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE HEALTH AND HUMAN SERVICES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 215

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

AN ACT

RELATING TO THE PRACTICE OF MEDICINE; PROVIDING FOR
COLLABORATION BETWEEN A PHYSICIAN ASSISTANT AND A LICENSED
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~~] accreditation 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 a

1 licensed physician and a physician assistant jointly contribute
2 to the health care and medical treatment of patients; provided
3 that:

4 (1) each collaborator performs actions that
5 the collaborator is licensed or otherwise authorized to
6 perform; and

7 (2) collaboration shall not be construed to
8 require the physical presence of the licensed physician at the
9 time and place services are rendered;

10 ~~[G.]~~ D. "licensed physician" means a medical doctor
11 licensed under the Medical Practice Act to practice medicine in
12 New Mexico;

13 ~~[D.]~~ E. "licensee" means a medical doctor,
14 physician assistant, polysomnographic technologist,
15 anesthesiologist assistant or naprapath licensed by the board
16 to practice in New Mexico;

17 ~~[E.]~~ F. "medical college or school in good
18 standing" means a board-approved medical college or school that
19 has as high a standard as that required by the association of
20 American medical colleges and the council on medical education
21 of the American medical association;

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

24 ~~[G.]~~ H. "physician assistant" means a health
25 professional who is licensed by the board to practice as a

1 physician assistant and who provides services to patients
 2 [~~under~~] with the supervision [~~and direction~~] of or in
 3 collaboration with a licensed physician as set forth in rules
 4 promulgated by the board;

5 [~~H.~~] I. "intern" means a first-year postgraduate
 6 student upon whom a degree of doctor of medicine and surgery or
 7 equivalent degree has been conferred by a medical college or
 8 school in good standing;

9 [~~F.~~] J. "resident" means a graduate of a medical
 10 college or school in good standing who is in training in a
 11 board-approved and accredited residency training program in a
 12 hospital or facility affiliated with an approved hospital and
 13 who has been appointed to the position of "resident" or
 14 "fellow" for the purpose of postgraduate medical training;

15 [~~J.~~] K. "the practice of medicine" consists of:

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

19 (2) offering or undertaking to administer,
 20 dispense or prescribe a drug or medicine for the use of another
 21 person, except as authorized pursuant to a professional or
 22 occupational licensing statute set forth in Chapter 61 NMSA
 23 1978;

24 (3) offering or undertaking to give or
 25 administer, dispense or prescribe a drug or medicine for the

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1 use of another person, except as directed by a licensed
2 physician;

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

5 (5) offering or undertaking to diagnose,
6 correct or treat in any manner or by any means, methods,
7 devices or instrumentalities any disease, illness, pain, wound,
8 fracture, infirmity, deformity, defect or abnormal physical or
9 mental condition of a person;

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

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

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

19 (1) the rendering of a written or otherwise
20 documented medical opinion concerning diagnosis or treatment of
21 a patient within this state by a physician located outside this
22 state as a result of transmission of individual patient data by
23 electronic, telephonic or other means from within this state to
24 the physician or the physician's agent; or

25 (2) the rendering of treatment to a patient

1 within this state by a physician located outside this state as
 2 a result of transmission of individual patient data by
 3 electronic, telephonic or other means from within this state to
 4 the physician or the physician's agent;

5 ~~[L.]~~ M. "sexual contact" means touching the primary
 6 genital area, groin, anus, buttocks or breast of a patient or
 7 allowing a patient to touch another's primary genital area,
 8 groin, anus, buttocks or breast in a manner that is commonly
 9 recognized as outside the scope of acceptable medical practice;

10 ~~[M.]~~ N. "sexual penetration" means sexual
 11 intercourse, cunnilingus, fellatio or anal intercourse, whether
 12 or not there is any emission, or introducing any object into
 13 the genital or anal openings of another in a manner that is
 14 commonly recognized as outside the scope of acceptable medical
 15 practice; and

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

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

20 "61-6-7. SHORT TITLE--LICENSURE AS A PHYSICIAN
 21 ASSISTANT--SCOPE OF PRACTICE--BIENNIAL REGISTRATION OF
 22 SUPERVISION--LICENSE RENEWAL--FEES.--

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

25 B. The board may license as a physician assistant a

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1 qualified person who has graduated from a physician assistant
2 [~~or surgeon assistant~~] program accredited by the national
3 accrediting body as established by rule and has passed a
4 physician assistant national certifying examination as
5 established by rule. The board may also license as a physician
6 assistant a person who passed the physician assistant national
7 certifying examination administered by the national commission
8 on certification of physician assistants prior to 1986.

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

14 D. Physician assistants may prescribe, administer,
15 dispense and distribute dangerous drugs other than controlled
16 substances in Schedule I of the Controlled Substances Act
17 pursuant to rules adopted by the board after consultation with
18 the board of pharmacy if the prescribing, administering,
19 dispensing and distributing are done [~~under~~] with the
20 [~~direction~~] supervision of a [~~supervising~~] licensed physician
21 [~~and within the parameters of a board approved formulary and~~
22 ~~guidelines established under Subsection C of Section 61-6-9~~
23 ~~NMSA 1978~~] or in collaboration with a licensed physician. The
24 distribution process shall comply with state laws concerning
25 prescription packaging, labeling and recordkeeping

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1 requirements. [~~Physician assistants shall not otherwise~~
2 ~~dispense dangerous drugs or controlled substances.~~]

3 E. A physician assistant shall perform only the
4 acts and duties [~~assigned to the physician assistant by a~~
5 ~~supervising licensed physician that are within the scope of~~
6 ~~practice of the supervising licensed physician]~~ that are within
7 the physician assistant's scope of practice.

8 F. An applicant for licensure as a physician
9 assistant shall complete application forms supplied by the
10 board and shall pay a licensing fee as provided in Section
11 61-6-19 NMSA 1978.

12 G. A physician assistant shall biennially submit
13 proof of current certification by the national commission on
14 certification of physician assistants or another certifying
15 agency as designated by rules promulgated by the board and
16 shall renew the license and registration of supervision of the
17 physician assistant with the board. [~~Applications for~~
18 ~~licensure or registration of supervision shall include the~~
19 ~~applicant's name, current address, the name and office address~~
20 ~~of the supervising licensed physician and other additional~~
21 ~~information as the board deems necessary.~~]

22 H. ~~Before starting work, a physician assistant~~
23 ~~shall ensure that the supervising licensed physician of the~~
24 ~~physician assistant is registered by the board. The license of~~
25 ~~a physician assistant shall only be valid when the physician~~

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1 ~~assistant works under the supervision of a board-registered~~
2 ~~licensed physician.]~~

3 H. A physician assistant shall not practice
4 medicine until the physician assistant has established a
5 supervising or collaborating relationship with a licensed
6 physician in accordance with rules adopted by the board.

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

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

11 "61-6-9. PHYSICIAN ASSISTANTS--RULES.--The board may
12 adopt and enforce reasonable rules for:

13 A. education, skill and experience for licensure of
14 a person as a physician assistant and providing forms and
15 procedures for biennial [~~licensure and registration of~~
16 ~~supervision by a licensed physician]~~ license renewal;

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

20 C. establishing when and for how long physician
21 assistants are permitted to prescribe, administer, dispense and
22 distribute dangerous drugs other than controlled substances in
23 Schedule I of the Controlled Substances Act pursuant to rules
24 adopted by the board after consultation with the board of
25 pharmacy;

1 D. allowing a supervising or collaborating licensed
 2 physician to temporarily delegate [~~supervisory~~] supervision or
 3 collaboration responsibilities for a physician assistant to
 4 another licensed physician;

5 E. [~~allowing~~] establishing when a physician
 6 assistant [~~to temporarily serve under the supervision of a~~
 7 ~~licensed physician other than the supervising~~] may engage in
 8 the practice of medicine in collaboration with a licensed
 9 physician [~~of record~~]; and

10 F. carrying out all other provisions of the
 11 Physician Assistant Act."

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

14 "61-6-10. SUPERVISING OR COLLABORATING LICENSED
 15 PHYSICIAN--RESPONSIBILITY.--

16 A. As a condition of licensure, all physician
 17 assistants practicing in New Mexico shall [~~inform the board of~~
 18 ~~the name of the licensed physician under whose supervision they~~
 19 ~~will practice. All supervising physicians shall be licensed~~
 20 ~~under the Medical Practice Act and shall be approved by the~~
 21 ~~board~~] be supervised by a physician licensed pursuant to the
 22 Medical Practice Act. The physician assistant shall inform the
 23 board of the name of the licensed physician under whose
 24 supervision the physician assistant will practice. All
 25 supervising physicians shall be licensed pursuant to the

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1 Medical Practice Act and shall be approved by the board.

2 B. Every licensed physician supervising a licensed
3 physician assistant shall be individually responsible and
4 liable for the performance of the acts and omissions delegated
5 to the physician assistant the physician supervises. Nothing
6 in this section shall be construed to relieve the physician
7 assistant of responsibility and liability for the acts and
8 omissions of the physician assistant. Rules promulgated
9 pursuant to the Physician Assistant Act shall:

10 (1) require that a physician assistant whose
11 practice is a specialty care, as defined by the board, shall be
12 supervised by a licensed physician in accordance with
13 requirements established by the board; and

14 (2) allow a physician assistant whose practice
15 is primary care, as defined by the board, to collaborate with a
16 licensed physician in accordance with requirements established
17 by the board for different practice settings.

18 C. A physician assistant shall be supervised by or
19 collaborate with a physician [~~as approved~~] in accordance with
20 rules adopted by the board."

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

23 "61-6-17. EXCEPTIONS TO ACT.--The Medical Practice Act
24 shall not apply to or affect:

25 A. gratuitous services rendered in cases of

1 emergency;

2 B. the domestic administration of family remedies;

3 C. the practice of midwifery as regulated in this
4 state;

5 D. commissioned medical officers of the armed
6 forces of the United States and medical officers of the
7 commissioned corps of the United States public health service
8 or [~~the veterans administration of~~] the United States
9 department of veterans affairs in the discharge of their
10 official duties or within federally controlled facilities;
11 provided that such persons who hold medical licenses in New
12 Mexico shall be subject to the provisions of the Medical
13 Practice Act; and provided further that all such persons shall
14 be fully licensed to practice medicine in one or more
15 jurisdictions of the United States;

16 E. the practice of medicine by a physician,
17 unlicensed in New Mexico, who performs emergency medical
18 procedures in air or ground transportation on a patient from
19 inside of New Mexico to another state or back; provided that
20 the physician is duly licensed in that state;

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

23 (1) osteopathy;

24 (2) dentistry;

25 (3) podiatry;

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underscored material = new
[bracketed material] = delete

- 1 (4) nursing;
- 2 (5) optometry;
- 3 (6) psychology;
- 4 (7) chiropractic;
- 5 (8) pharmacy;
- 6 (9) acupuncture and oriental medicine; or
- 7 (10) physical therapy;

8 G. an act, task or function performed by a
9 physician assistant, at the direction of and ~~[under]~~ with the
10 supervision of or in collaboration with, a licensed physician,
11 when:

- 12 (1) the physician assistant is currently
13 licensed by the board;
- 14 (2) the act, task or function is performed [~~at~~
15 ~~the direction of and under]~~ with the supervision of a licensed
16 physician or in collaboration with a licensed physician in
17 accordance with rules promulgated by the board; and
- 18 (3) the acts of the physician assistant are
19 within the scope of duties assigned or delegated by the
20 supervising or collaborating licensed physician and the acts
21 are within the scope of the physician assistant's training;

22 H. an act, task or function of laboratory
23 technicians or technologists, x-ray technicians, nurse
24 practitioners, medical or surgical assistants or other
25 technicians or qualified persons permitted by law or

1 established by custom as part of the duties delegated to them
2 by:

3 (1) a licensed physician or a hospital, clinic
4 or institution licensed or approved by the public health
5 division of the department of health or an agency of the
6 federal government; or

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

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

22 J. the practice of the religious tenets of a church
23 in the ministration to the sick or suffering by mental or
24 spiritual means as provided by law; provided that the Medical
25 Practice Act shall not be construed to exempt a person from the

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1 operation or enforcement of the sanitary and quarantine laws of
2 the state;

3 K. the acts of a physician licensed under the laws
4 of another state of the United States who is the treating
5 physician of a patient and orders home health or hospice
6 services for a resident of New Mexico to be delivered by a home
7 and community support services agency licensed in this state;
8 provided that a change in the condition of the patient shall be
9 physically reevaluated by the treating physician in the
10 treating physician's jurisdiction or by a licensed New Mexico
11 physician;

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

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

22 SECTION 6. A new section of the Physician Assistant Act
23 is enacted to read:

24 "[NEW MATERIAL] PHYSICIAN ASSISTANT COLLABORATION WITH
25 LICENSED PHYSICIANS--SCOPE OF PRACTICE--MEDICAL MALPRACTICE

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1 INSURANCE.--

2 A. A physician assistant may perform the acts and
3 duties that are within the physician assistant's scope of
4 practice in collaboration with a licensed physician, if the
5 physician assistant has:

6 (1) completed three years of clinical practice
7 as a physician assistant with the supervision of a licensed
8 physician; and

9 (2) complied with rules adopted by the board
10 establishing qualifications for when a physician assistant may
11 engage in the practice of medicine in collaboration with a
12 licensed physician.

13 B. A physician assistant practicing in
14 collaboration with a licensed physician shall, at a minimum,
15 maintain a policy of malpractice liability insurance that will
16 qualify the physician assistant under the provisions of the
17 Medical Malpractice Act."

18 SECTION 7. Section 61-6-19 NMSA 1978 (being Laws 1989,
19 Chapter 269, Section 15, as amended) is amended to read:

20 "61-6-19. FEES.--

21 A. The board shall impose the following fees:

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

25 (2) an application fee not to exceed four

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1 hundred dollars (\$400) for licensure by examination as provided
2 in Section 61-6-11 NMSA 1978;

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

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

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

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

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

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

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

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

25 (11) an interim license fee not to exceed one

1 hundred dollars (\$100);

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

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

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

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

13 (16) a late fee not to exceed fifty dollars
14 (\$50.00) for physician assistants who renew their licensure
15 within forty-five days after the required renewal date;

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

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

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

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1 ~~(20)~~ (19) a fee not to exceed three hundred
2 dollars (\$300) annually for a physician supervising a clinical
3 pharmacist;

4 ~~(21)~~ (20) an application and renewal fee for
5 a telemedicine license not to exceed four hundred dollars
6 (\$400);

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

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

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