

HOUSE BILL 109

**55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

INTRODUCED BY

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AN ACT

RELATING TO NURSING; EXPANDING THE SIZE OF THE BOARD OF NURSING; CHANGING THE QUALIFICATIONS OF MEMBERS OF THE BOARD OF NURSING; AMENDING THE AUTHORITY OF CERTIFIED NURSE PRACTITIONERS TO DISPENSE DRUGS TO THEIR PATIENTS; REMOVING THE REQUIREMENT OF CERTIFIED NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS TO SUBMIT FORMULARIES TO THE BOARD.

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

SECTION 1. Section 61-3-8 NMSA 1978 (being Laws 1968, Chapter 44, Section 5, as amended by Laws 1991, Chapter 189, Section 3 and also by Laws 1991, Chapter 190, Section 5) is amended to read:

"61-3-8. BOARD CREATED--MEMBERS--QUALIFICATIONS--TERMS--VACANCIES--REMOVAL.--

A. There is created a [~~seven~~] nine-member "board of

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1 nursing". The board shall consist of four licensed nurses, one  
2 [~~preferably a~~] licensed practical nurse, one licensed nurse  
3 with expertise in nursing education and three members who shall  
4 represent the public and shall not have been licensed as  
5 registered or licensed practical nurses or licensed health care  
6 professionals in another health care profession, nor shall the  
7 public members have any significant financial interest, direct  
8 or indirect, in the profession regulated. Not more than two  
9 board members shall be appointed from any one county, and not  
10 more than two registered nurse members shall be from any one  
11 field of nursing. Members of the board shall be appointed by  
12 the governor for staggered terms of four years each. Nurse  
13 members shall be appointed from lists submitted to the governor  
14 by any generally recognized organization of nurses in this  
15 state. Appointments shall be made in such manner that the  
16 terms of no more than two board members expire on July 1 of  
17 each year. Vacancies shall be filled by appointment by the  
18 governor for the unexpired term within sixty days of the  
19 vacancy. Board members shall serve until their successors have  
20 been appointed and qualified.

21 B. Members of the board shall be citizens of the  
22 United States and residents of this state. Registered nurse  
23 members shall be licensed in this state, shall have had, since  
24 graduation, at least five years' experience in nursing, shall  
25 be currently engaged in professional nursing and shall have

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1     been actively engaged in professional nursing for at least  
2     three years immediately preceding appointment or reappointment.  
3     The licensed practical nurse member shall be licensed in this  
4     state, shall have been graduated from an approved licensed  
5     practical nursing education program, shall have been licensed  
6     by examination, shall have had at least five years' experience  
7     since graduation, shall be currently engaged in licensed  
8     practical nursing and shall have been actively engaged in  
9     licensed practical nursing for at least three years immediately  
10    preceding appointment or reappointment.

11           C. No board member shall serve more than two full  
12    or partial terms, consecutive or otherwise.

13           D. Any board member failing to attend seventy  
14    percent of meeting days annually, either regular or special,  
15    shall automatically be removed as a member of the board.

16           E. The governor may remove any member from the  
17    board for neglect of any duty required by law, for incompetency  
18    or for unprofessional or dishonorable conduct, in accordance  
19    with ~~[regulations]~~ rules prescribed by the board.

20           F. In the event of a vacancy on the board for any  
21    reason, the secretary of the board shall immediately notify the  
22    governor, the board members and any generally recognized  
23    nursing organization of the vacancy, the reason for its  
24    occurrence and the action taken by the board, so as to expedite  
25    the appointment of a new board member."

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1           SECTION 2. Section 61-3-23.2 NMSA 1978 (being Laws 1991,  
2 Chapter 190, Section 14, as amended) is amended to read:

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

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

9                       (1) is a registered nurse;

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

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

17                      (4) is certified by a national nursing  
18 organization.

19           B. Certified nurse practitioners may:

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

23                      (2) practice independently and make decisions  
24 regarding health care needs of the individual, family or  
25 community and carry out health regimens, including the

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1 prescription and distribution of dangerous drugs and controlled  
2 substances included in Schedules II through V of the Controlled  
3 Substances Act; and

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

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

13 D. Certified nurse practitioners who have fulfilled  
14 requirements for prescriptive authority may distribute to their  
15 patients dangerous drugs and controlled substances included in  
16 Schedules II through V of the Controlled Substances Act that  
17 have been prepared, packaged or fabricated by a registered  
18 pharmacist or doses of drugs that have been prepackaged by a  
19 pharmaceutical manufacturer in accordance with the Pharmacy Act  
20 and the New Mexico Drug, Device and Cosmetic Act.

21 E. Certified nurse practitioners licensed by the  
22 board on and after December 2, 1985 shall successfully complete  
23 a national certifying examination and shall maintain national  
24 professional certification in their specialty area. Certified  
25 nurse practitioners licensed by a board prior to December 2,

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1 1985 are not required to sit for a national certification  
2 examination or be certified by a national organization.

3 F. Certified nurse practitioners who have fulfilled  
4 the requirements for prescriptive authority may dispense  
5 dangerous drugs or controlled substances included in Schedules  
6 II through V of the Controlled Substances Act to supply the  
7 immediate needs of their patients.

8 [~~F.~~] G. From July 1, 2014 through June 30, 2019,  
9 upon a determination by the board that an application is  
10 complete and approved, the board shall issue a license to a  
11 certified nurse practitioner licensed in another state if the  
12 applicant meets the qualifications required of certified nurse  
13 practitioners in this state. The board shall expedite the  
14 issuance of the license within five business days."

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

17 "61-3-23.4. CLINICAL NURSE SPECIALIST--QUALIFICATIONS--  
18 ENDORSEMENT--EXPEDITED LICENSURE.--

19 A. The board may license for advanced practice as a  
20 clinical nurse specialist an applicant who furnishes evidence  
21 satisfactory to the board that the applicant:

- 22 (1) is a registered nurse;
- 23 (2) has a master's degree or doctoral degree
- 24 in a defined clinical nursing specialty;
- 25 (3) has successfully completed a national

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1 certifying examination in the applicant's area of specialty;  
2 and

3 (4) is certified by a national nursing  
4 organization.

5 B. Clinical nurse specialists may:

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

9 (2) make independent decisions in a  
10 specialized area of nursing practice using expert knowledge  
11 regarding the health care needs of the individual, family and  
12 community, collaborating as necessary with other members of the  
13 health care team when the health care need is beyond the scope  
14 of practice of the clinical nurse specialist; and

15 (3) carry out therapeutic regimens in the area  
16 of specialty practice, including the prescription and  
17 distribution of dangerous drugs.

18 C. A clinical nurse specialist who has fulfilled  
19 the requirements for prescriptive authority in the area of  
20 specialty practice is authorized to prescribe, administer and  
21 distribute therapeutic measures, including dangerous drugs and  
22 controlled substances included in Schedules II through V of the  
23 Controlled Substances Act within the scope of specialty  
24 practice, including controlled substances pursuant to the  
25 Controlled Substances Act that have been prepared, packaged or

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

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

11 E. Clinical nurse specialists licensed by the board  
12 shall maintain certification in their specialty area.

13 F. From July 1, 2014 through June 30, 2019, upon a  
14 determination by the board that an application is complete and  
15 approved, the board shall issue a license to a clinical nurse  
16 specialist licensed in another state if the applicant meets the  
17 qualifications required of a clinical nurse specialist in this  
18 state. The board shall expedite the issuance of the license  
19 within five business days."