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**SENATE BILL 566**  
**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**  
**INTRODUCED BY**  
**Timothy Z. Jennings**

**AN ACT**  
**RELATING TO THE PRACTICE OF MEDICINE; AMENDING CERTAIN**  
**SECTIONS OF THE MEDICAL PRACTICE ACT.**

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

**Section 1. Section 61-6-15 NMSA 1978 (being Laws 1969, Chapter 46, Section 6, as amended) is amended to read:**

**"61-6-15. LICENSE MAY BE REFUSED, REVOKED OR SUSPENDED-- LICENSEE MAY BE FINED, CENSURED OR REPRIMANDED-- PROCEDURE-- PRACTICE AFTER SUSPENSION OR REVOCATION-- PENALTY-- UNPROFESSIONAL AND DISHONORABLE CONDUCT DEFINED-- FEES AND EXPENSES-- NOTICE OF CLAIM --**

**A. The board may refuse to license and may revoke or suspend any license that has been issued by the board or any previous board and may fine, censure or reprimand any licensee upon satisfactory proof being made to the board that**

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1 the applicant for or holder of the license has been guilty of  
2 unprofessional or dishonorable conduct. The board may also  
3 refuse to license an applicant who is unable to practice  
4 medicine, pursuant to Section 61-7-3 NMSA 1978. All  
5 proceedings shall be as required by the Uniform Licensing Act  
6 or the Impaired Health Care Provider Act.

7 B. The board may, in its discretion and for good  
8 cause shown, place the licensee on probation on such terms and  
9 conditions as it deems proper for protection of the public or  
10 for the purpose of the rehabilitation of the probationer, or  
11 both. Upon expiration of the term of probation, if a term is  
12 set, further proceedings may be abated by the board if the  
13 holder of the license furnishes the board with evidence that  
14 the physician is competent to practice medicine, is of good  
15 moral character and has complied with the terms of probation.

16 C. If evidence fails to establish to the  
17 satisfaction of the board that the licensee is competent and  
18 is of good moral character or if evidence shows that he has  
19 not complied with the terms of probation, the board may revoke  
20 or suspend the license forthwith. If a license to practice  
21 medicine in this state is suspended, the holder of the license  
22 may not practice during the term of suspension [and]. Any  
23 person whose license has been revoked or suspended by the  
24 board and who thereafter practices or attempts or offers to  
25 practice medicine in New Mexico, unless the period of

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1 suspension has expired or been modified by the board or the  
2 physician's license reinstated, is guilty of a felony and  
3 shall be punished as provided in Section 61-6-20 NMSA 1978.

4 D. "Unprofessional or dishonorable conduct", as  
5 used in this section, means among other things, but not  
6 limited to because of enumeration:

7 (1) procuring, aiding or abetting a criminal  
8 abortion;

9 (2) employing any person to solicit patients  
10 for the physician;

11 (3) representing to a patient that a  
12 manifestly incurable condition of sickness, disease or injury  
13 can be cured;

14 (4) obtaining any fee by fraud or  
15 misrepresentation;

16 (5) willfully or negligently divulging a  
17 professional confidence;

18 (6) conviction of any offense punishable by  
19 incarceration in a state penitentiary or federal prison or  
20 conviction of a misdemeanor associated with the practice of  
21 medicine. A copy of the record of conviction, certified by  
22 the clerk of the court entering the conviction, is conclusive  
23 evidence;

24 (7) habitual or excessive use of intoxicants  
25 or drugs;

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1 (8) fraud or misrepresentation in applying  
2 for or procuring a license to practice in this state or in  
3 connection with applying for or procuring renewal, including  
4 cheating on or attempting to subvert the licensing  
5 examinations;

6 (9) making false or misleading statements  
7 regarding the physician's skill or the efficacy or value of  
8 the medicine, treatment or remedy prescribed or administered  
9 by the physician or at the physician's direction in the  
10 treatment of any disease or other condition of the human body  
11 or mind;

12 (10) impersonating another person licensed to  
13 practice medicine, permitting or allowing any person to use  
14 the physician's license or certificate of registration or  
15 practicing medicine under a false or assumed name;

16 (11) aiding or abetting the practice of  
17 medicine by a person not licensed by the board;

18 (12) gross negligence in the practice of  
19 medicine;

20 (13) manifest incapacity or incompetence to  
21 practice medicine;

22 (14) discipline imposed on a licensee to  
23 practice medicine by another state, including probation,  
24 suspension or revocation, based upon acts by the licensee  
25 similar to acts described in this section. A certified copy

1 of the record of suspension or revocation of the state making  
2 the suspension or revocation is conclusive evidence;

3 (15) the use of any false, fraudulent or  
4 deceptive statement in any document connected with the  
5 practice of medicine;

6 (16) fee splitting;

7 (17) the prescribing, administering or  
8 dispensing of narcotic, stimulant or hypnotic drugs for other  
9 than accepted therapeutic purposes;

10 (18) conduct likely to deceive, defraud or  
11 harm the public;

12 (19) repeated similar negligent acts;

13 (20) employing abusive billing practices;

14 (21) failure to report to the board any  
15 adverse action taken against the physician by:

16 (a) another licensing jurisdiction;

17 (b) any peer review body;

18 (c) any health care entity;

19 (d) any professional or medical society  
20 or association;

21 (e) any governmental agency;

22 (f) any law enforcement agency; or

23 (g) any court for acts or conduct  
24 similar to acts or conduct that would constitute grounds for  
25 action as defined in this section;

1 (22) failure to report to the board surrender  
2 of a license or other authorization to practice medicine in  
3 another state or jurisdiction or surrender of membership on  
4 any medical staff or in any medical or professional  
5 association or society following, in lieu of and while under  
6 disciplinary investigation by any of those authorities or  
7 bodies for acts or conduct similar to acts or conduct that  
8 would constitute grounds for action as defined in this  
9 section;

10 (23) failure to furnish the board, its  
11 investigators or representatives with information requested by  
12 the board;

13 (24) abandonment of patients;

14 (25) being found mentally incompetent or  
15 insane by a court of competent jurisdiction;

16 (26) injudicious prescribing, administering  
17 or dispensing of any drug or medicine;

18 (27) failure to adequately supervise, as  
19 provided by board regulation, a medical or surgical assistant  
20 or technician or professional licensee who renders health  
21 care;

22 (28) intentionally engaging in sexual contact  
23 or sexual penetration with a patient other than one's spouse  
24 after representing or inferring that such activity is a  
25 legitimate part of the patient's treatment;

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1 (29) conduct unbecoming in a person licensed  
2 to practice medicine or detrimental to the best interests of  
3 the public; and

4 (30) the surrender of a license to practice  
5 medicine or withdrawal of an application for a license to  
6 practice medicine before another state licensing board while  
7 disciplinary action is pending before that board for acts or  
8 conduct similar to acts or conduct that would constitute  
9 grounds for action as provided for in this section.

10 E. As used in this section, "fee splitting"  
11 includes offering, delivering, receiving or accepting any  
12 unearned rebate, refunds, commission preference, patronage  
13 dividend, discount or other unearned consideration, whether in  
14 the form of money or otherwise, as compensation or inducement  
15 for referring patients, clients or customers to any person,  
16 irrespective of any membership, proprietary interest or co-  
17 ownership in or with any person to whom the patients, clients  
18 or customers are referred.

19 F. Licensees shall bear all costs of disciplinary  
20 proceedings unless exonerated.

21 G. Licensees whose licenses are in a probationary  
22 status shall pay reasonable expenses for maintaining  
23 probationary status, including [~~but not limited to~~] laboratory  
24 costs when laboratory testing of biological fluids are  
25 included as a condition of probation.

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1           H. For the purpose of investigating the competence  
2 of medical practitioners covered by the Medical Practice Act  
3 who practice medicine in the state of New Mexico, any entity  
4 issuing professional liability insurance to physicians or  
5 indemnifying physicians for professional liability in New  
6 Mexico shall report to the board all settlements or judgments  
7 against licensed physicians, whether they are tried in court  
8 or settled out of court. "

9           Section 2. Section 61-6-19 NMSA 1978 (being Laws 1989,  
10 Chapter 269, Section 15, as amended by Laws 1997, Chapter 187,  
11 Section 9 and also by Laws 1997, Chapter 221, Section 4) is  
12 amended to read:

13           "61-6-19. FEES. --

14           A. The board shall impose the following fees:

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

18                   (2) an application fee not to exceed four  
19 hundred dollars (\$400) for licensure by examination as  
20 provided in Section 61-6-11 NMSA 1978;

21                   (3) an examination fee equal to the cost of  
22 purchasing the examination plus an administration fee not to  
23 exceed fifty percent of that cost;

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



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

4 (6) a late fee not to exceed one hundred  
5 dollars (\$100) for licensees who [~~fail to~~] renew their license  
6 [~~within forty-five~~] between thirty and sixty days after the  
7 required renewal date;

8 (7) a late fee not to exceed two hundred  
9 dollars (\$200) for licensees who [~~fail to~~] renew their  
10 licenses [~~from forty-six days to~~] between sixty and ninety  
11 days after the required renewal date;

12 (8) a reinstatement fee not to exceed the  
13 current application fee for reinstatement of a revoked,  
14 suspended or inactive license;

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

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

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

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

25 (13) a temporary license fee not to exceed

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1 one hundred dollars (\$100);

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

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

7 (16) a licensure fee not to exceed one  
8 hundred fifty dollars (\$150) for physician assistants biennial  
9 licensing and registration of supervising physician;

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

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

18 (19) a fee not to exceed three hundred  
19 dollars (\$300) annually for a physician supervising a clinical  
20 pharmacist.

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

23 Section 3. Section 61-6-26 NMSA 1978 (being Laws 1989,  
24 Chapter 269, Section 22) is amended to read:

25 "61-6-26. TRIENNIAL RENEWAL FEES--PENALTY FOR FAILURE TO

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1 RENEW LICENSE. --

2 A. Before July 1 of every third year, every  
3 licensed practitioner of medicine in this state shall have  
4 applied for a certificate of triennial renewal of license for  
5 the ensuing three years. The board may establish a method to  
6 provide for staggered triennial renewal terms and may prorate  
7 triennial renewal fees and impaired physicians fees until  
8 staggered triennial renewal is established. The fact that a  
9 practitioner has not received a renewal form from the board  
10 shall not relieve him of the duty to renew his license nor  
11 shall such omission on the part of the board operate to exempt  
12 him from the penalties provided by Chapter 61, Article 6 NMSA  
13 1978 for failure to renew his license.

14 B. All licensed practitioners shall pay a  
15 triennial renewal fee and impaired physicians fee as provided  
16 in Section 61-6-19 NMSA 1978 and all practitioners shall  
17 return the completed renewal form together with the renewal  
18 fee and proof of continuing medical education.

19 C. Each application for triennial renewal of  
20 license shall state the practitioner's full name, business  
21 address, the date and number of his license and all other  
22 information requested by the board.

23 D. ~~[Any]~~ A practitioner who fails to submit his  
24 application for triennial renewal on or before July 1 but who  
25 submits his application for triennial renewal within ~~[forty-~~

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1 ~~five]~~ thirty days thereafter shall not be assessed a late fee  
2 [~~as provided in Section 61-6-19 NMSA 1978~~].

3 E. ~~[Any]~~ A practitioner who [~~fails to submit~~]  
4 submits the application for triennial renewal between [~~forty-~~  
5 ~~five]~~ thirty and [~~ninety]~~ sixty days of the July 1 deadline  
6 shall be assessed a cumulative late fee as provided in  
7 [~~Paragraphs (5) and~~] Paragraph (6) of Subsection A of Section  
8 61-6-19 NMSA 1978.

9 F. A practitioner who submits the application for  
10 triennial renewal between sixty and ninety days of the July 1  
11 deadline shall be assessed a cumulative late fee as provided  
12 in Paragraph (7) of Subsection A of Section 61-6-19 NMSA 1978.

13 [~~F.~~] G. The board may, in its discretion,  
14 summarily suspend for nonpayment of fees the license of [any]  
15 a practitioner who has failed to renew his license within  
16 ninety days of July 1. "