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 accreditation council for graduate
medical education;

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

C. "collaboration" means the process by which a
licensed physician and a physician assistant jointly
contribute to the health care and medical treatment of
patients; provided that:

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

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

D. "licensed physician" means a medical doctor
licensed under the Medical Practice Act to practice medicine in New Mexico;

E. "licensee" means a medical doctor, physician assistant, polysomnographic technologist, anesthesiologist assistant or naprapath licensed by the board to practice in New Mexico;

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

G. "medical student" means a student enrolled in a board-approved medical college or school in good standing;

H. "physician assistant" means a health professional who is licensed by the board to practice as a physician assistant and who provides services to patients with the supervision of or in collaboration with a licensed physician as set forth in rules promulgated by the board;

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

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

K. "the practice of medicine" consists of:

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

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

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

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

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

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

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

L. "the practice of medicine across state lines" means:

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

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

M. "sexual contact" means touching the primary genital area, groin, anus, buttocks or breast of a patient or allowing a patient to touch another's primary genital area, groin, anus, buttocks or breast in a manner that is commonly recognized as outside the scope of acceptable medical practice;
N. "sexual penetration" means sexual intercourse, cunnilingus, fellatio or anal intercourse, whether or not there is any emission, or introducing any object into the genital or anal openings of another in a manner that is commonly recognized as outside the scope of acceptable medical practice; and

O. "United States" means the fifty states, its territories and possessions and the District of Columbia."

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

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

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

B. The board may license as a physician assistant a qualified person who has graduated from a physician assistant program accredited by the national accrediting body as established by rule and has passed a physician assistant national certifying examination as established by rule. The board may also license as a physician assistant a person who passed the physician assistant national certifying examination administered by the national commission on certification of physician assistants prior to 1986.

C. A person shall not perform, attempt to perform
or hold the person's own self out as a physician assistant without first applying for and obtaining a license from the board.

D. Physician assistants may prescribe, administer, dispense and distribute dangerous drugs other than controlled substances in Schedule I of the Controlled Substances Act pursuant to rules adopted by the board after consultation with the board of pharmacy if the prescribing, administering, dispensing and distributing are done with the supervision of a licensed physician or in collaboration with a licensed physician. The distribution process shall comply with state laws concerning prescription packaging, labeling and recordkeeping requirements.

E. A physician assistant shall perform only the acts and duties that are within the physician assistant's scope of practice.

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

G. A physician assistant shall biennially submit proof of current certification by the national commission on certification of physician assistants or another certifying agency as designated by rules promulgated by the board and shall renew the license and registration of supervision of
the physician assistant with the board.

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

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

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

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

A. education, skill and experience for licensure
of a person as a physician assistant and providing forms and
procedures for biennial license renewal;

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

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

D. allowing a supervising or collaborating
licensed physician to temporarily delegate supervision or
collaboration responsibilities for a physician assistant to
another licensed physician;

E. establishing when a physician assistant may
engage in the practice of medicine in collaboration with a
licensed physician; and

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

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

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

A. As a condition of licensure, all physician
assistants practicing in New Mexico shall be supervised by a
physician licensed pursuant to the Medical Practice Act. The
physician assistant shall inform the board of the name of the
licensed physician under whose supervision the physician
assistant will practice. All supervising physicians shall be
licensed pursuant to the Medical Practice Act and shall be
approved by the board.

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

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

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

C. A physician assistant shall be supervised by or collaborate with a physician in accordance with rules adopted by the board."

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

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

A. gratuitous services rendered in cases of emergency;

B. the domestic administration of family remedies;

C. the practice of midwifery as regulated in this state;
D. commissioned medical officers of the armed forces of the United States and medical officers of the commissioned corps of the United States public health service or the United States department of veterans affairs in the discharge of their official duties or within federally controlled facilities; provided that such persons who hold medical licenses in New Mexico shall be subject to the provisions of the Medical Practice Act; and provided further that all such persons shall be fully licensed to practice medicine in one or more jurisdictions of the United States;

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

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

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

G. an act, task or function performed by a physician assistant, at the direction of and with the supervision of or in collaboration with, a licensed physician, when:

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

(2) the act, task or function is performed with the supervision of a licensed physician or in collaboration with a licensed physician in accordance with rules promulgated by the board; and

(3) the acts of the physician assistant are within the scope of duties assigned or delegated by the supervising or collaborating licensed physician and the acts are within the scope of the physician assistant's training;

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

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

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

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

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

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

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

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

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

"PHYSICIAN ASSISTANT COLLABORATION WITH LICENSED
PHYSICIANS--SCOPE OF PRACTICE--MEDICAL MALPRACTICE
INSURANCE.--

A. A physician assistant may perform the acts and
duties that are within the physician assistant's scope of
practice in collaboration with a licensed physician, if the
physician assistant has:
(1) completed three years of clinical practice as a physician assistant with the supervision of a licensed physician; and

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

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

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

"61-6-19. FEES.--

A. The board shall impose the following fees:

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

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

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

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

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

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

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

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

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

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

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

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

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

(14) an application fee not to exceed one

hundred fifty dollars ($150) for physician assistants
applying for initial licensure;

(15) a licensure fee not to exceed one

hundred fifty dollars ($150) for physician assistants
biennial license renewal and registration of supervising or
collaborating licensed physician;

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

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

(18) a reinstatement fee not to exceed one

hundred dollars ($100) for physician assistants who reinstate
an expired license;

(19) a fee not to exceed three hundred
dollars ($300) annually for a physician supervising a
clinical pharmacist;

(20) an application and renewal fee for a
telemedicine license not to exceed four hundred dollars
($400);

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

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

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