

1 AN ACT
2 RELATING TO HEALTH; AMENDING SECTIONS OF THE NURSING PRACTICE
3 ACT TO CLARIFY THE SCOPE OF PRACTICE FOR DIFFERENT CATEGORIES
4 OF LICENSED NURSES REGARDING THE ADMINISTRATION OF GENERAL
5 ANESTHESIA, ANESTHETICS AND SEDATIVES; MAKING CHANGES TO THE
6 LICENSING PROCESS; EXPANDING THE POWERS AND DUTIES OF THE
7 BOARD OF NURSING; MODIFYING THE ADMINISTRATION OF CERTAIN
8 DISCIPLINARY PROCESSES; REQUIRING THE CONFIDENTIALITY OF
9 COMMUNICATIONS RELATING TO POTENTIAL DISCIPLINARY ACTIONS.

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

14 "61-3-3. DEFINITIONS.--As used in the Nursing Practice
15 Act:

16 A. "advanced practice" means the practice of
17 professional registered nursing by a registered nurse who has
18 been prepared through additional formal education as provided
19 in Sections 61-3-23.2 through 61-3-23.4 NMSA 1978 to function
20 beyond the scope of practice of professional registered
21 nursing, including certified nurse practitioners, certified
22 registered nurse anesthetists and certified clinical nurse
23 specialists;

24 B. "advanced practice registered nurse" means a
25 certified nurse practitioner, certified registered nurse

1 anesthetist or certified clinical nurse specialist licensed
2 pursuant to the Nursing Practice Act;

3 C. "anesthetics" means a substance that causes the
4 entire or partial loss of the feeling of pain, temperature or
5 other sensations, with or without the loss of consciousness,
6 including topical, local or intravenous anesthetics but
7 excluding general anesthesia;

8 D. "artificial intelligence" means a broad
9 category of existing, emerging and future digital
10 technologies that involves using algorithms to drive the
11 behavior of agents such as software programs, machines and
12 robotics;

13 E. "board" means the board of nursing;

14 F. "certified hemodialysis technician" means a
15 person who is certified by the board to assist in the direct
16 care of a patient undergoing hemodialysis, under the
17 supervision and at the direction of a registered nurse or a
18 licensed practical nurse, according to the rules adopted by
19 the board;

20 G. "certified medication aide" means a person who
21 is certified by the board to administer medications under the
22 supervision and at the direction of a registered nurse or a
23 licensed practical nurse, according to the rules adopted by
24 the board;

25 H. "certified nurse practitioner" means a

1 registered nurse who is licensed by the board for advanced
2 practice as a certified nurse practitioner and whose name and
3 pertinent information are entered on the list of certified
4 nurse practitioners maintained by the board;

5 I. "certified registered nurse anesthetist" means
6 a registered nurse who is licensed by the board for advanced
7 practice as a certified registered nurse anesthetist and
8 whose name and pertinent information are entered on the list
9 of certified registered nurse anesthetists maintained by the
10 board;

11 J. "certified clinical nurse specialist" means a
12 registered nurse who is licensed by the board for advanced
13 practice as a certified clinical nurse specialist and whose
14 name and pertinent information are entered on the list of
15 certified clinical nurse specialists maintained by the board;

16 K. "collaboration" means the cooperative working
17 relationship with another health care provider in the
18 provision of patient care, and such collaborative practice
19 includes the discussion of patient diagnosis and cooperation
20 in the management and delivery of health care;

21 L. "general anesthesia" means a drug-induced loss
22 of consciousness where:

23 (1) patients are not arousable, even by
24 painful stimulation;

25 (2) the ability to maintain an adequate

1 airway and respiratory function is affected; and

2 (3) the cardiovascular function may be
3 impaired;

4 M. "licensed practical nurse" means a nurse who
5 practices licensed practical nursing and whose name and
6 pertinent information are entered in the register of licensed
7 practical nurses maintained by the board or a nurse who
8 practices licensed practical nursing pursuant to a multistate
9 licensure privilege as provided in the Nurse Licensure
10 Compact;

11 N. "licensed practical nursing" means the practice
12 of a directed scope of nursing requiring basic knowledge of
13 the biological, physical, social and behavioral sciences and
14 nursing procedures, which practice is at the direction of a
15 registered nurse, physician or dentist licensed to practice
16 in this state. This practice includes but is not limited to:

17 (1) contributing to the assessment of the
18 health status of individuals, families and communities;

19 (2) participating in the development and
20 modification of the plan of care;

21 (3) implementing appropriate aspects of the
22 plan of care commensurate with education and verified
23 competence;

24 (4) collaborating with other health care
25 professionals in the management of health care; and

1 (5) participating in the evaluation of
2 responses to interventions;

3 O. "Nurse Licensure Compact" means the agreement
4 entered into between New Mexico and other jurisdictions
5 permitting the practice of professional registered nursing or
6 licensed practical nursing pursuant to a multistate licensure
7 privilege;

8 P. "nursing diagnosis" means a clinical judgment
9 about individual, family or community responses to actual or
10 potential health problems or life processes, which judgment
11 provides a basis for the selection of nursing interventions
12 to achieve outcomes for which the person making the judgment
13 is accountable;

14 Q. "practice of nursing" means assisting
15 individuals, families or communities in maintaining or
16 attaining optimal health, assessing and implementing a plan
17 of care to accomplish defined goals and evaluating responses
18 to care and treatment. This practice is based on specialized
19 knowledge, judgment and nursing skills acquired through
20 educational preparation in nursing and in the biological,
21 physical, social and behavioral sciences and includes but is
22 not limited to:

23 (1) initiating and maintaining comfort
24 measures;

25 (2) promoting and supporting optimal human

1 functions and responses;

2 (3) establishing an environment conducive to
3 well-being or to the support of a dignified death;

4 (4) collaborating on the health care
5 regimen;

6 (5) administering medications and performing
7 treatments prescribed by a person authorized in this state or
8 in any other state in the United States to prescribe them;

9 (6) recording and reporting nursing
10 observations, assessments, interventions and responses to
11 health care;

12 (7) providing counseling and health
13 teaching;

14 (8) delegating and supervising nursing
15 interventions that may be performed safely by others and are
16 not in conflict with the Nursing Practice Act; and

17 (9) maintaining accountability for safe and
18 effective nursing care;

19 R. "professional registered nursing" means the
20 practice of the full scope of nursing requiring substantial
21 knowledge of the biological, physical, social and behavioral
22 sciences and of nursing theory and may include advanced
23 practice pursuant to the Nursing Practice Act. This practice
24 includes but is not limited to:

25 (1) assessing the health status of

1 individuals, families and communities;

2 (2) establishing a nursing diagnosis;

3 (3) establishing goals to meet identified
4 health care needs;

5 (4) developing a plan of care;

6 (5) determining nursing intervention to
7 implement the plan of care;

8 (6) implementing the plan of care
9 commensurate with education and verified competence;

10 (7) evaluating responses to interventions;

11 (8) teaching based on the theory and
12 practice of nursing;

13 (9) managing and supervising the practice of
14 nursing;

15 (10) collaborating with other health care
16 professionals in the management of health care; and

17 (11) conducting nursing research;

18 S. "registered nurse" means a nurse who practices
19 professional registered nursing and whose name and pertinent
20 information are entered in the register of licensed
21 registered nurses maintained by the board or a nurse who
22 practices professional registered nursing pursuant to a
23 multistate licensure privilege as provided in the Nurse
24 Licensure Compact;

25 T. "scope of practice" means the parameters within HB 178/a
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1 which nurses practice based upon education, experience,
2 licensure, certification and expertise;

3 U. "sedation" means the administration of
4 medication to produce various levels of calmness, relaxation
5 or sleep, including:

6 (1) minimum sedation, during which a patient
7 responds normally to verbal commands and may have impaired
8 cognitive function or coordination, and respiratory and
9 cardiovascular functions remain stable;

10 (2) moderate sedation, during which a
11 patient responds purposefully to verbal commands, either
12 alone or accompanied by light tactile stimulation;
13 respiratory functions remain stable; and cardiovascular
14 functions are usually maintained;

15 (3) deep sedation, during which a patient
16 cannot be easily aroused but responds purposefully, following
17 repeated or painful stimulation; respiratory functions may be
18 impaired, requiring assistance in maintaining the airway,
19 including intubation and mechanical ventilation; and
20 cardiovascular functions are usually maintained; or

21 (4) palliative sedation, an end-of-life
22 intervention used to provide a patient with relief of
23 symptoms that cannot be controlled in a tolerable time frame
24 despite the use of therapies and that are unlikely to be
25 controlled by further therapies without excessive,

1 intolerable, acute or chronic side effects or complications,
2 but not to intentionally hasten death; and

3 V. "training program" means an educational program
4 approved by the board."

5 SECTION 2. Section 61-3-6 NMSA 1978 (being Laws 1973,
6 Chapter 149, Section 2, as amended) is amended to read:

7 "61-3-6. ADMINISTRATION OF ANESTHETICS, SEDATIVES AND
8 GENERAL ANESTHESIA.--

9 A. A currently licensed certified registered nurse
10 anesthetist may administer general anesthesia to any person.

11 B. A registered nurse currently licensed pursuant
12 to the Nursing Practice Act may, upon the successful
13 completion of required training programs, administer
14 anesthetics, as ordered by a licensed physician or
15 independent provider or per employing organization protocol,
16 up to and including moderate sedation to any person."

17 SECTION 3. Section 61-3-9 NMSA 1978 (being Laws 1968,
18 Chapter 44, Section 6, as amended) is amended to read:

19 "61-3-9. BOARD MEETINGS--QUORUM--OFFICERS.--

20 A. The board shall annually elect a chair, vice
21 chair and secretary from its entire membership.

22 B. The board shall meet at least once every three
23 months. Special meetings may be called by the chair and
24 shall be called upon the written request of three or more
25 members of the board. Notification of special meetings shall

1 be made by certified mail unless such notice is waived by the
2 entire board and noted in the minutes. Notice of all regular
3 meetings shall be made by regular mail at least ten days
4 prior to the meeting, and copies of the minutes of all
5 meetings shall be mailed to each board member within thirty
6 days after any meeting.

7 C. A majority of the board, including at least one
8 officer, constitutes a quorum."

9 SECTION 4. Section 61-3-10 NMSA 1978 (being Laws 1968,
10 Chapter 44, Section 7, as amended) is amended to read:

11 "61-3-10. POWERS--DUTIES.--The board:

12 A. shall promulgate rules in accordance with the
13 State Rules Act as necessary to enable it to carry into
14 effect the provisions of the Nursing Practice Act and to
15 maintain high standards of practice;

16 B. shall prescribe standards and approve curricula
17 for educational programs preparing persons for licensure
18 under the Nursing Practice Act;

19 C. shall provide for surveys of educational
20 programs preparing persons for licensure under the Nursing
21 Practice Act;

22 D. shall grant, deny or withdraw approval from
23 educational programs for failure to meet prescribed
24 standards, if a majority of the board concurs in the
25 decision;

1 E. shall provide for the examination, licensing
2 and renewal of licenses of applicants;

3 F. shall conduct hearings upon charges relating to
4 discipline of a licensee or nurse not licensed to practice in
5 New Mexico who is permitted to practice professional
6 registered nursing or licensed practical nursing in New
7 Mexico pursuant to a multistate licensure privilege as
8 provided in the Nurse Licensure Compact;

9 G. shall conduct hearings upon charges related to
10 an applicant or discipline of a licensee or the denial,
11 suspension or revocation of a license in accordance with the
12 procedures of the Uniform Licensing Act;

13 H. shall cause the prosecution of persons
14 violating the Nursing Practice Act and have the power to
15 incur such expense as is necessary for the prosecution;

16 I. shall keep a record of all proceedings;

17 J. shall make an annual report to the governor;

18 K. shall appoint and employ a qualified registered
19 nurse, who shall not be a member of the board, to serve as
20 executive officer to the board, and the board shall define
21 the duties and responsibilities of the executive officer;
22 except that the power to grant, deny or withdraw approval for
23 schools of nursing or to revoke, suspend or withhold a
24 license authorized by the Nursing Practice Act shall not be
25 delegated by the board;

1 L. shall provide for such qualified assistants as
2 may be necessary to carry out the provisions of the Nursing
3 Practice Act. Such employees shall be paid a salary
4 commensurate with their duties;

5 M. shall, for the purpose of protecting the health
6 and well-being of residents of New Mexico and promoting
7 current nursing knowledge and practice, promulgate rules
8 establishing continuing education requirements as a condition
9 of license renewal and shall study methods of monitoring
10 continuing competence;

11 N. may appoint advisory committees consisting of
12 at least one member who is a board member and at least two
13 members who are expert in the pertinent field of health care
14 to assist it in the performance of its duties. Committee
15 members may be reimbursed as provided in the Per Diem and
16 Mileage Act;

17 O. may promulgate rules designed to maintain an
18 inactive status listing for registered nurses and licensed
19 practical nurses, including designating an inactive reserve
20 category for registered nurses and licensed practical nurses
21 for activation during an emergency for limited functions at
22 no cost to the nurse;

23 P. may promulgate rules to regulate the advanced
24 practice of professional registered nursing and expanded
25 practice of licensed practical nursing;

1 Q. shall license qualified certified nurse
2 practitioners, certified registered nurse anesthetists and
3 certified clinical nurse specialists;

4 R. shall register nurses not licensed to practice
5 in New Mexico who are permitted to practice professional
6 registered nursing or licensed practical nursing in New
7 Mexico pursuant to a multistate licensure privilege as
8 provided in the Nurse Licensure Compact;

9 S. shall promulgate rules establishing standards
10 for authorizing prescriptive authority to certified nurse
11 practitioners, certified clinical nurse specialists and
12 certified registered nurse anesthetists;

13 T. shall determine by rule the states and
14 territories of the United States or the District of Columbia
15 from which it will not accept an applicant for expedited
16 licensure and shall determine any foreign countries from
17 which it will accept an applicant for expedited licensure.
18 The board shall post the lists of unapproved and approved
19 licensing jurisdictions on the board's website. The list of
20 disapproved licensing jurisdictions shall include the
21 specific reasons for disapproval. The lists shall be
22 reviewed annually to determine if amendments to the rule are
23 warranted;

24 U. shall promulgate a rule creating a retired
25 registered nurse license category without a licensing fee for

1 retired registered nurses who can serve on advisory and
2 policymaking community and nonprofit organization boards;

3 V. shall ensure that New Mexico nursing data
4 collected by the board is owned by the board;

5 W. shall develop and maintain a system that
6 assists all schools of nursing with the coordination of pre-
7 licensure clinical placements;

8 X. shall provide a nurse applying for a first-time
9 license, or upon renewal of a license, the option for a
10 single or multistate license, which may incur an additional
11 fee; and

12 Y. shall promulgate rules establishing standards
13 for the use of artificial intelligence in nursing."

14 SECTION 5. Section 61-3-14 NMSA 1978 (being Laws 1968,
15 Chapter 44, Section 11, as amended) is amended to read:

16 "61-3-14. LICENSURE OF REGISTERED NURSES--BY
17 EXAMINATION--EXPEDITED LICENSURE.--

18 A. Applicants for licensure by examination shall
19 be required to pass the national licensing examination for
20 registered nurses. An applicant who successfully passes the
21 examination and submits a completed application may be issued
22 by the board a license to practice as a registered nurse.

23 B. The board shall issue an expedited license to
24 practice professional registered nursing without an
25 examination to an applicant who has been duly licensed in

1 another licensing jurisdiction and holds a valid,
2 unrestricted license and is in good standing with the
3 licensing board in that licensing jurisdiction. The board
4 shall expedite the issuance of a license in accordance with
5 Section 61-1-31.1 NMSA 1978 within thirty days. If the board
6 issues an expedited license to a person whose prior licensing
7 jurisdiction did not require examination, the board may
8 require that person to pass an examination before applying
9 for license renewal.

10 C. An applicant licensed under the laws of a
11 territory or foreign country shall demonstrate proficiency in
12 English."

13 SECTION 6. Section 61-3-16 NMSA 1978 (being Laws 1968,
14 Chapter 44, Section 13, as amended) is amended to read:

15 "61-3-16. FEES FOR LICENSURE AS A REGISTERED NURSE.--
16 Except as provided in Section 61-1-34 NMSA 1978, an applicant
17 for licensure as a registered nurse shall pay the following
18 nonrefundable fees:

19 A. for licensure without examination, a fee not to
20 exceed two hundred dollars (\$200);

21 B. for licensure by examination when the
22 examination is the first for the applicant in this state, a
23 fee not to exceed one hundred fifty dollars (\$150);

24 C. for licensure by examination when the
25 examination is other than the first examination, a fee not to

1 exceed sixty dollars (\$60.00);

2 D. for initial licensure as a certified nurse
3 practitioner, certified registered nurse anesthetist or
4 certified clinical nurse specialist, a fee not to exceed two
5 hundred dollars (\$200). This fee shall be in addition to the
6 fee paid for registered nurse licensure; and

7 E. the board may waive the fee for an initial
8 license for a registered nurse who has graduated from a New
9 Mexico public school of nursing."

10 SECTION 7. Section 61-3-19 NMSA 1978 (being Laws 1968,
11 Chapter 44, Section 16, as amended) is amended to read:

12 "61-3-19. LICENSURE OF LICENSED PRACTICAL NURSES--BY
13 EXAMINATION--BY EXPEDITED LICENSURE.--

14 A. Applicants for licensure by examination shall
15 be required to pass the national licensing examination for
16 licensed practical nurses. An applicant who passes the
17 examination and submits a completed application may be issued
18 a license by the board to practice as a licensed practical
19 nurse.

20 B. The board shall issue an expedited license as a
21 licensed practical nurse without an examination to an
22 applicant who has been duly licensed in another licensing
23 jurisdiction and holds a valid, unrestricted license and is
24 in good standing with the licensing board in that licensing
25 jurisdiction. The board shall expedite the issuance of a

1 license in accordance with Section 61-1-31.1 NMSA 1978 within
2 thirty days. If the board issues an expedited license to a
3 person whose prior licensing jurisdiction did not require
4 examination, the board may require that person to pass an
5 examination before applying for license renewal.

6 C. An applicant licensed under the laws of a
7 territory or foreign country shall demonstrate proficiency in
8 English.

9 D. The board may waive the fee for an initial
10 license for an applicant who has graduated from a New Mexico
11 public school of nursing."

12 SECTION 8. Section 61-3-23.2 NMSA 1978 (being Laws
13 1991, Chapter 190, Section 14, as amended) is amended to
14 read:

15 "61-3-23.2. CERTIFIED NURSE PRACTITIONER--
16 QUALIFICATIONS--PRACTICE--EXAMINATION--ENDORSEMENT--EXPEDITED
17 LICENSURE.--

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

21 (1) is a registered nurse;

22 (2) has successfully completed a program for
23 the education and preparation of nurse practitioners;
24 provided that, if the applicant is initially licensed by the
25 board or a board in another jurisdiction after January 1,

1 2001, the program shall be at the master's level or higher;

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

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

6 B. Certified nurse practitioners may:

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

10 (2) practice independently and make
11 decisions regarding health care needs of the individual,
12 family or community and carry out health regimens, including
13 the prescription and distribution of dangerous drugs and
14 controlled substances included in Schedules II through V of
15 the Controlled Substances Act; and

16 (3) serve as a primary, acute, chronic,
17 long-term and end-of-life health care provider and, as
18 necessary, collaborate with licensed medical doctors,
19 osteopathic physicians or podiatric physicians.

20 C. Certified nurse practitioners who have
21 fulfilled requirements for prescriptive authority may
22 prescribe in accordance with rules promulgated by the board.

23 D. Certified nurse practitioners who have
24 fulfilled requirements for prescriptive authority may
25 distribute to their patients dangerous drugs and controlled

1 substances included in Schedules II through V of the
2 Controlled Substances Act that have been prepared, packaged
3 or fabricated by a registered pharmacist or doses of drugs
4 that have been prepackaged by a pharmaceutical manufacturer
5 in accordance with the Pharmacy Act and the New Mexico Drug,
6 Device and Cosmetic Act.

7 E. Certified nurse practitioners licensed by the
8 board on and after December 2, 1985 shall successfully
9 complete a national certifying examination and shall maintain
10 national professional certification in their specialty area.
11 Certified nurse practitioners licensed by a board prior to
12 December 2, 1985 are not required to sit for a national
13 certification examination or be certified by a national
14 organization.

15 F. The board shall issue an expedited license to
16 an applicant without an examination if the person has been
17 duly licensed as a certified nurse practitioner in another
18 licensing jurisdiction and is in good standing with the
19 licensing board in that licensing jurisdiction. The board
20 shall expedite the issuance of the license in accordance with
21 Section 61-1-31.1 NMSA 1978 within thirty days. If the board
22 issues an expedited license to a person whose prior licensing
23 jurisdiction did not require examination, the board may
24 require that person to pass an examination before applying
25 for license renewal. An applicant licensed under the laws of

1 a territory or foreign country shall demonstrate proficiency
2 in English."

3 SECTION 9. Section 61-3-23.4 NMSA 1978 (being Laws
4 1991, Chapter 190, Section 16, as amended) is amended to
5 read:

6 "61-3-23.4. CERTIFIED CLINICAL NURSE SPECIALIST--
7 QUALIFICATIONS--ENDORSEMENT--EXPEDITED LICENSURE.--

8 A. The board may license for advanced practice as
9 a certified clinical nurse specialist an applicant who
10 furnishes evidence satisfactory to the board that the
11 applicant:

12 (1) is a registered nurse;

13 (2) has a master's degree or doctoral degree
14 in a defined clinical nursing specialty;

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

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

20 B. Certified clinical nurse specialists may:

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

24 (2) make independent decisions in a
25 specialized area of nursing practice using expert knowledge

1 regarding the health care needs of the individual, family and
2 community, collaborating as necessary with other members of
3 the health care team when the health care need is beyond the
4 scope of practice of the certified clinical nurse specialist;
5 and

6 (3) carry out therapeutic regimens in the
7 area of specialty practice, including the prescription and
8 distribution of dangerous drugs.

9 C. A certified clinical nurse specialist who has
10 fulfilled the requirements for prescriptive authority in the
11 area of specialty practice is authorized to prescribe,
12 administer and distribute therapeutic measures, including
13 dangerous drugs and controlled substances included in
14 Schedules II through V of the Controlled Substances Act
15 within the scope of specialty practice, including controlled
16 substances pursuant to 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
20 Act and the New Mexico Drug, Device and Cosmetic Act.

21 D. Certified clinical nurse specialists who have
22 fulfilled the requirements for prescriptive authority in the
23 area of specialty practice may prescribe in accordance with
24 rules promulgated by the board.

25 E. Certified clinical nurse specialists licensed

1 by the board shall maintain certification in their specialty
2 area.

3 F. The board shall issue an expedited license to
4 an applicant without an examination if the person has been
5 duly licensed as a certified clinical nurse specialist in
6 another licensing jurisdiction and is in good standing with
7 the licensing board in that licensing jurisdiction. The
8 board shall expedite the issuance of the license in
9 accordance with Section 61-1-31.1 NMSA 1978 within thirty
10 days. If the board issues an expedited license to a person
11 whose prior licensing jurisdiction did not require
12 examination, the board may require that person to pass an
13 examination before applying for license renewal. An
14 applicant licensed under the laws of a territory or foreign
15 country shall demonstrate proficiency in English."

16 SECTION 10. Section 61-3-24 NMSA 1978 (being Laws 1968,
17 Chapter 44, Section 20, as amended) is amended to read:

18 "61-3-24. RENEWAL OF LICENSES.--

19 A. Any person licensed pursuant to the provisions
20 of the Nursing Practice Act who intends to continue practice
21 shall renew the license every two years by the end of the
22 applicant's renewal month and shall show proof of continuing
23 education as required by the board, except when on active
24 military duty during a military action.

25 B. Upon receipt of the application and, except as
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1 provided in Section 61-1-34 NMSA 1978, a fee, in an amount
2 not to exceed one hundred fifty dollars (\$150), a license
3 valid for two years shall be issued. Upon initial licensure,
4 or upon renewal, a licensee may apply for a multistate
5 license for an additional fee not to exceed fifty dollars
6 (\$50.00).

7 C. Upon receipt of the application and any
8 required fee, the board shall verify the licensee's
9 eligibility for continued licensure and issue to the
10 applicant a renewal license for two years.

11 D. A person who allows a license to lapse shall be
12 reinstated by the board on payment of any required fee for
13 the current two years plus a reinstatement fee not to exceed
14 two hundred dollars (\$200); provided that all other
15 requirements are met."

16 SECTION 11. Section 61-3-28 NMSA 1978 (being Laws 1968,
17 Chapter 44, Section 24, as amended) is amended to read:

18 "61-3-28. DISCIPLINARY PROCEEDINGS--JUDICIAL REVIEW--
19 APPLICATION OF UNIFORM LICENSING ACT--LIMITATION.--

20 A. In accordance with the procedures contained in
21 the Uniform Licensing Act, the board may deny, revoke or
22 suspend any license held or applied for under the Nursing
23 Practice Act, reprimand or place a licensee on probation or
24 deny, limit or revoke the multistate licensure privilege of a
25 nurse desiring to practice or practicing professional

1 registered nursing or licensed practical nursing as provided
2 in the Nurse Licensure Compact upon grounds that the
3 licensee, applicant or nurse:

4 (1) is guilty of fraud or deceit in
5 procuring or attempting to procure a license or certificate
6 of registration;

7 (2) is convicted of a felony;

8 (3) is unfit or incompetent;

9 (4) is addicted to the use of habit-forming
10 substances;

11 (5) is mentally incompetent;

12 (6) is guilty of unprofessional conduct as
13 defined by the rules adopted by the board pursuant to the
14 Nursing Practice Act;

15 (7) has willfully or repeatedly violated any
16 provisions of the Nursing Practice Act, including any rule
17 adopted by the board pursuant to that act;

18 (8) was licensed to practice nursing in any
19 jurisdiction, territory or possession of the United States or
20 another country and was the subject of disciplinary action as
21 a licensee for acts similar to acts described in this
22 subsection. A certified copy of the record of the
23 jurisdiction, territory or possession of the United States or
24 another country taking the disciplinary action is conclusive
25 evidence of the action; or

1 (9) uses conversion therapy on a minor.

2 B. Disciplinary proceedings may be instituted by
3 any person, shall be by complaint and shall conform with the
4 provisions of the Uniform Licensing Act. Any party to the
5 hearing may obtain a copy of the hearing record upon payment
6 of costs for the copy.

7 C. The board shall not initiate a disciplinary
8 action more than two years after the date that it receives a
9 complaint.

10 D. The time limitation contained in Subsection C
11 of this section shall not be tolled by any civil or criminal
12 litigation in which the licensee or applicant is a party,
13 arising substantially from the same facts, conduct,
14 transactions or occurrences that would be the basis for the
15 board's disciplinary action.

16 E. The board may recover the costs associated with
17 the investigation and disposition of a disciplinary
18 proceeding from the nurse who is the subject of the
19 proceeding if the nurse is practicing professional registered
20 nursing or licensed practical nursing pursuant to a
21 multistate licensure privilege as provided in the Nurse
22 Licensure Compact.

23 F. As used in this section:

24 (1) "conversion therapy" means any practice
25 or treatment that seeks to change a person's sexual

1 orientation or gender identity, including any effort to
2 change behaviors or gender expressions or to eliminate or
3 reduce sexual or romantic attractions or feelings toward
4 persons of the same sex. "Conversion therapy" does not mean:

5 (a) counseling or mental health
6 services that provide acceptance, support and understanding
7 of a person without seeking to change gender identity or
8 sexual orientation; or

9 (b) mental health services that
10 facilitate a person's coping, social support, sexual
11 orientation or gender identity exploration and development,
12 including an intervention to prevent or address unlawful
13 conduct or unsafe sexual practices, without seeking to change
14 gender identity or sexual orientation;

15 (2) "gender identity" means a person's self-
16 perception, based on the person's appearance, behavior or
17 physical characteristics, that the person exhibits more
18 masculinity or femininity whether or not it matches the
19 person's gender or sex assigned at birth;

20 (3) "minor" means a person under eighteen
21 years of age; and

22 (4) "sexual orientation" means a person's
23 physical, romantic or emotional attraction to persons of the
24 same or different gender or the absence of any such
25 attraction."

1 SECTION 12. Section 61-3-29.1 NMSA 1978 (being Laws
2 1987, Chapter 285, Section 1, as amended) is amended to read:

3 "61-3-29.1. ALTERNATIVE TO DISCIPLINE PROGRAM
4 CREATED--ADVISORY COMMITTEE--RENEWAL FEE--REQUIREMENTS--
5 IMMUNITY FROM CIVIL ACTIONS.--

6 A. The board shall establish an alternative to
7 discipline program to rehabilitate nurses whose competencies
8 may be impaired because of the use of habit-forming
9 substances so that nurses can be treated and returned to or
10 continue the practice of nursing in a manner that will
11 benefit the public. The intent of the alternative to
12 discipline program is to develop a voluntary alternative to
13 traditional disciplinary actions and an alternative to
14 lengthy and costly investigations and administrative
15 proceedings against such nurses, at the same time providing
16 adequate safeguards for the public.

17 B. The board shall appoint one or more evaluation
18 committees, hereinafter called "regional advisory
19 committees", each of which shall be composed of members with
20 expertise in chemical dependency. At least one member shall
21 be a registered nurse. No current member of the board shall
22 be appointed to a regional advisory committee. The executive
23 officer of the board or the executive officer's designee
24 shall be the liaison between each regional advisory committee
25 and the board.

1 C. Each regional advisory committee shall function
2 under the direction of the board and in accordance with rules
3 of the board. The rules shall include directions to a
4 regional advisory committee to:

5 (1) establish criteria for continuance in
6 the program;

7 (2) develop a written alternative to
8 discipline program contract to be approved by the board that
9 sets forth the requirements that shall be met by the nurse
10 and the conditions under which the alternative to discipline
11 program may be successfully completed or terminated;

12 (3) recommend to the board in favor of or
13 against each nurse's discharge from the alternative to
14 discipline program;

15 (4) evaluate each nurse's progress in
16 recovery and compliance with the nurse's alternative to
17 discipline program contract;

18 (5) report violations to the board;

19 (6) submit an annual report to the board;
20 and

21 (7) coordinate educational programs and
22 research related to nurses addicted to the use of habit-
23 forming substances.

24 D. The board may increase the renewal fee for each
25 nurse in the state not to exceed twenty dollars (\$20.00) for

1 the purpose of implementing and maintaining the alternative
2 to discipline program.

3 E. Files of nurses in the alternative to
4 discipline program shall be maintained in the board office
5 and shall be confidential except as required to be disclosed
6 pursuant to the Nurse Licensure Compact, when used to make a
7 report to the board concerning a nurse who is not cooperating
8 and complying with the alternative to discipline program
9 contract or, with written consent of a nurse, when used for
10 research purposes as long as the nurse is not specifically
11 identified. However, the files shall be subject to discovery
12 or subpoena. The confidential provisions of this subsection
13 are of no effect if the nurse admitted to the alternative to
14 discipline program leaves the state prior to the completion
15 of the program.

16 F. A person making a report to the board or to a
17 regional advisory committee regarding a nurse suspected of
18 practicing nursing while addicted to the use of habit-forming
19 substances or making a report of a nurse's progress or lack
20 of progress in rehabilitation shall be immune from civil
21 action for defamation or other cause of action resulting from
22 such reports if the reports are made in good faith and with
23 some reasonable basis in fact.

24 G. A person admitted to the alternative to
25 discipline program for chemically dependent nurses who fails

1 to comply with the provisions of this section or with the
2 rules adopted by the board pursuant to this section or with
3 the written alternative to discipline program contract or with
4 any amendments to the written alternative to discipline
5 program contract may be subject to disciplinary action in
6 accordance with Section 61-3-28 NMSA 1978."

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