

Proposed

                     SUBSTITUTE FOR  
SENATE BILL 270

**57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026**

DISCUSSION DRAFT

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
AMENDING AND ENACTING SECTIONS OF THE MEDICAL PRACTICE ACT TO  
GIVE THE NEW MEXICO MEDICAL BOARD NEW DUTIES AND POWERS;  
PROHIBITING THE NEW MEXICO MEDICAL BOARD FROM RESTRICTING THE  
ABILITY OF A LICENSEE TO ADVERTISE THE LICENSEE'S SERVICES;  
PROVIDING REQUIREMENTS FOR COMPLAINTS AND INVESTIGATIONS  
AGAINST HEALTH CARE PROVIDERS LICENSED BY THE NEW MEXICO  
MEDICAL BOARD.

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

SECTION 1. A new section of the Medical Practice Act is  
enacted to read:

"[NEW MATERIAL] ADVERTISING AND COMPETITIVE BIDDING.--

A. The board shall not restrict the ability of a  
licensee to advertise the licensee's services except to

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1 prohibit false, misleading or deceptive practices by the  
2 licensee.

3 B. Rules promulgated by the board to prohibit  
4 false, misleading or deceptive practices by a licensee shall  
5 not restrict the:

- 6 (1) use of any advertising medium;  
7 (2) licensee's personal appearance or the use  
8 of the licensee's voice in an advertisement;  
9 (3) size or duration of an advertisement by  
10 the licensee; or  
11 (4) licensee's advertisement under a trade  
12 name."

13 SECTION 2. A new section of the Medical Practice Act is  
14 enacted to read:

15 "[NEW MATERIAL] INFORMATION REQUIRED TO BE PROVIDED TO  
16 LICENSEES.--Each time a licensee obtains or renews a license,  
17 the board shall provide the licensee with information on:

18 A. best practices for prescribing and dispensing  
19 pain medications;

20 B. the risks and signs of substance use disorder  
21 for persons who are prescribed prescription pain medications;

22 C. best practices for responding to an overdose of  
23 prescription pain medications; and

24 D. how to contact poison control resources in  
25 emergency situations."

1           SECTION 3. A new section of the Medical Practice Act is  
2 enacted to read:

3           "[NEW MATERIAL] INFORMATION REQUIRED TO BE PROVIDED TO THE  
4 PUBLIC.--The board shall maintain a profile for each licensee  
5 that is accessible on the board's website and includes:

6                   A. the licensee's completed levels of education;

7                   B. any specialty certification held by the  
8 licensee;

9                   C. the number of years the licensee has been  
10 licensed in:

11                           (1) the United States and Canada; and

12                           (2) this state;

13                   D. the name of any hospital in the state in which  
14 the licensee has privileges;

15                   E. the licensee's primary practice location;

16                   F. a complete description of any disciplinary  
17 history against the licensee by the board or a licensing board  
18 in another jurisdiction;

19                   G. a description of any formal complaint made  
20 against the licensee and the status of the complaint; and

21                   H. a description of any medical malpractice claim  
22 against the licensee for which the licensee was found liable, a  
23 jury awarded monetary damages to the claimant and the award has  
24 been determined to be final and not subject to further appeal."

25           SECTION 4. Section 61-6-15 NMSA 1978 (being Laws 1969,  
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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.--

A. The board may refuse to license and may revoke  
or suspend a license that has been issued by the board or a  
previous board and may fine, censure or reprimand a licensee  
upon satisfactory proof being made to the board that the  
applicant for or holder of the license has been guilty of  
unprofessional or dishonorable conduct. The board may also  
refuse to license an applicant who is unable to practice as a  
physician, practice as a physician assistant, an  
anesthesiologist assistant, a genetic counselor, a naturopathic  
practitioner, a naprapathic practitioner or a podiatric  
physician or practice polysomnography, pursuant to Section  
61-7-3 NMSA 1978. All proceedings shall be as required by the  
Uniform Licensing Act or the Impaired Health Care Provider Act.

B. The board shall establish requirements for  
licensees to provide information to members of the public on  
how to contact the board to submit complaints of unprofessional  
or dishonorable conduct against a licensee. Licensees may be  
required to provide information on how to contact the board:

(1) on each registration form, application or

1 written contract for services from a licensee;

2 (2) on a sign prominently displayed in the  
3 place of business of each licensee; or

4 (3) in a bill for service provided by a  
5 licensee.

6 C. The board shall establish a standard form that  
7 allows members of the public to submit complaints of  
8 unprofessional or dishonorable conduct against a licensee. The  
9 form shall be consumer friendly and posted conspicuously on the  
10 board's website.

11 D. The board shall promulgate rules to establish  
12 procedures for the investigation and review of complaints filed  
13 with the board. The rules shall:

14 (1) distinguish among categories of complaints  
15 and give priority to complaints that involve sexual misconduct,  
16 quality of care and impaired physician issues;

17 (2) ensure that a complaint is not dismissed  
18 without appropriate consideration;

19 (3) require the board to notify a licensee who  
20 is the subject of a complaint filed with the board that a  
21 complaint has been filed and to notify the licensee of the  
22 nature of the complaint unless the notice would jeopardize an  
23 investigation;

24 (4) require the board to notify the parties to  
25 the complaint of the status of the complaint until final

1 disposition unless the notice would jeopardize an  
2 investigation;

3 (5) require that the board be advised of the  
4 dismissal of a complaint and that a letter be sent to the  
5 person who filed the complaint and to the licensee who was the  
6 subject of the complaint explaining the action taken on the  
7 complaint; and

8 (6) ensure that a person who files a complaint  
9 has an opportunity to explain the allegations made in the  
10 complaint.

11 E. The board shall not consider or act on a  
12 complaint involving care provided more than seven years before  
13 the date on which the complaint is received by the board unless  
14 the care was provided to a minor. If the care was provided to  
15 a minor, the board shall not consider or act on a complaint  
16 involving the care after the later of:

17 (1) the date the minor is twenty-one years of  
18 age; or

19 (2) the seventh anniversary of the date of the  
20 care.

21 F. On receipt of a complaint, the board may  
22 consider a previously investigated complaint to determine  
23 whether there is a pattern of unprofessional or dishonorable  
24 conduct.

25 ~~[B.]~~ G. The board may, in its discretion and for

1 good cause shown, place the licensee on probation on the terms  
2 and conditions it deems proper for protection of the public,  
3 for the purpose of rehabilitation of the probationer or both.  
4 Upon expiration of the term of probation, if a term is set,  
5 further proceedings may be abated by the board if the holder of  
6 the license furnishes the board with evidence that the licensee  
7 is competent to practice, is of good moral character and has  
8 complied with the terms of probation.

9 ~~[G.]~~ H. If evidence fails to establish to the  
10 satisfaction of the board that the licensee is competent and is  
11 of good moral character or if evidence shows that the licensee  
12 has not complied with the terms of probation, the board may  
13 revoke or suspend the license. If a license to practice in  
14 this state is suspended, the holder of the license may not  
15 practice during the term of suspension. A person whose license  
16 has been revoked or suspended by the board and who thereafter  
17 practices or attempts or offers to practice in New Mexico,  
18 unless the period of suspension has expired or been modified by  
19 the board or the license reinstated, is guilty of a felony and  
20 shall be punished as provided in Section 61-6-20 NMSA 1978.

21 ~~[D.]~~ I. "Unprofessional or dishonorable conduct",  
22 as used in this section, means, but is not limited to because  
23 of enumeration, conduct of a licensee that includes the  
24 following:

25 (1) procuring, aiding or abetting an illegal

1 procedure;

2 (2) employing a person to solicit patients for  
3 the licensee;

4 (3) representing to a patient that a  
5 manifestly incurable condition of sickness, disease or injury  
6 can be cured;

7 (4) obtaining a fee by fraud or  
8 misrepresentation;

9 (5) willfully or negligently divulging a  
10 professional confidence;

11 (6) conviction of an offense punishable by  
12 incarceration in a state penitentiary or federal prison or  
13 conviction of a misdemeanor associated with the practice of the  
14 licensee. A copy of the record of conviction, certified by the  
15 clerk of the court entering the conviction, is conclusive  
16 evidence;

17 (7) habitual or excessive use of intoxicants  
18 or drugs;

19 (8) fraud or misrepresentation in applying for  
20 or procuring a license to practice in this state or in  
21 connection with applying for or procuring renewal, including  
22 cheating on or attempting to subvert the licensing  
23 examinations;

24 (9) making false or misleading statements  
25 regarding the skill of the licensee or the efficacy or value of

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1 the medicine, treatment or remedy prescribed or administered by  
2 the licensee or at the direction of the licensee in the  
3 treatment of a disease or other condition of the human body or  
4 mind;

5 (10) impersonating another licensee,  
6 permitting or allowing a person to use the license of the  
7 licensee or practicing as a licensee under a false or assumed  
8 name;

9 (11) aiding or abetting the practice of a  
10 person not licensed by the board;

11 (12) gross negligence in the practice of a  
12 licensee;

13 (13) manifest incapacity or incompetence to  
14 practice as a licensee;

15 (14) discipline imposed on a licensee by  
16 another licensing jurisdiction, including denial, probation,  
17 suspension or revocation, based upon acts by the licensee  
18 similar to acts described in this section. A certified copy of  
19 the record of disciplinary action or sanction taken by another  
20 jurisdiction is conclusive evidence of the action;

21 (15) the use of a false, fraudulent or  
22 deceptive statement in a document connected with the practice  
23 of a licensee;

24 (16) fee splitting;

25 (17) the prescribing, administering or

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1 dispensing of narcotic, stimulant or hypnotic drugs for other  
2 than accepted therapeutic purposes;

3 (18) conduct likely to deceive, defraud or  
4 harm the public;

5 (19) repeated similar negligent acts or a  
6 pattern of conduct otherwise described in this section or in  
7 violation of a board rule;

8 (20) employing abusive billing practices;

9 (21) failure to report to the board any  
10 adverse action taken against the licensee by:

11 (a) another licensing jurisdiction;

12 (b) a peer review body;

13 (c) a health care entity;

14 (d) a professional or medical society or  
15 association;

16 (e) a governmental agency;

17 (f) a law enforcement agency; or

18 (g) a court for acts or conduct similar  
19 to acts or conduct that would constitute grounds for action as  
20 defined in this section;

21 (22) failure to report to the board the denial  
22 of licensure, surrender of a license or other authorization to  
23 practice in another state or jurisdiction or surrender of  
24 membership on any medical staff or in any medical or  
25 professional association or society following, in lieu of and

1 while under disciplinary investigation by any of those  
2 authorities or bodies for acts or conduct similar to acts or  
3 conduct that would constitute grounds for action as defined in  
4 this section;

5 (23) failure to furnish the board, its  
6 investigators or representatives with information requested by  
7 the board;

8 (24) abandonment of patients;

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

11 (26) injudicious prescribing, administering or  
12 dispensing of a drug or medicine;

13 (27) failure to adequately supervise, as  
14 provided by board rule, a medical or surgical assistant or  
15 technician or professional licensee who renders health care;

16 (28) sexual contact with a patient or person  
17 who has authority to make medical decisions for a patient,  
18 other than the spouse of the licensee;

19 (29) conduct unbecoming in a person licensed  
20 to practice or detrimental to the best interests of the public;

21 (30) the surrender of a license or withdrawal  
22 of an application for a license before another state licensing  
23 board while an investigation or disciplinary action is pending  
24 before that board for acts or conduct similar to acts or  
25 conduct that would constitute grounds for action pursuant to

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1 this section;

2 (31) sexual contact with a former mental  
3 health patient of the licensee, other than the spouse of the  
4 licensee, within one year from the end of treatment;

5 (32) sexual contact with a patient when the  
6 licensee uses or exploits treatment, knowledge, emotions or  
7 influence derived from the current or previous professional  
8 relationship;

9 (33) improper management of medical records,  
10 including failure to maintain timely, accurate, legible and  
11 complete medical records;

12 (34) failure to provide pertinent and  
13 necessary medical records to a physician or patient of the  
14 physician in a timely manner when legally requested to do so by  
15 the patient or by a legally designated representative of the  
16 patient;

17 (35) undertreatment of pain as provided by  
18 board rule;

19 (36) interaction with physicians, hospital  
20 personnel, patients, family members or others that interferes  
21 with patient care or could reasonably be expected to adversely  
22 impact the quality of care rendered to a patient;

23 (37) soliciting or receiving compensation by a  
24 physician assistant or anesthesiologist assistant from a person  
25 who is not an employer of the assistant;

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1 (38) willfully or negligently divulging  
2 privileged information or a professional secret; or

3 (39) the use of conversion therapy on a minor.

4 ~~[E-]~~ J. As used in this section:

5 (1) "conversion therapy" means any practice or  
6 treatment that seeks to change a person's sexual orientation or  
7 gender identity, including any effort to change behaviors or  
8 gender expressions or to eliminate or reduce sexual or romantic  
9 attractions or feelings toward persons of the same sex.

10 "Conversion therapy" does not mean:

11 (a) counseling or mental health services  
12 that provide acceptance, support and understanding of a person  
13 without seeking to change gender identity or sexual  
14 orientation; or

15 (b) mental health services that  
16 facilitate a person's coping, social support, sexual  
17 orientation or gender identity exploration and development,  
18 including an intervention to prevent or address unlawful  
19 conduct or unsafe sexual practices, without seeking to change  
20 gender identity or sexual orientation;

21 (2) "fee splitting" includes offering,  
22 delivering, receiving or accepting any unearned rebate,  
23 refunds, commission preference, patronage dividend, discount or  
24 other unearned consideration, whether in the form of money or  
25 otherwise, as compensation or inducement for referring

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1 patients, clients or customers to a person, irrespective of any  
2 membership, proprietary interest or co-ownership in or with a  
3 person to whom the patients, clients or customers are referred;

4 (3) "gender identity" means a person's self-  
5 perception, or perception of that person by another, of the  
6 person's identity as a male or female based upon the person's  
7 appearance, behavior or physical characteristics that are in  
8 accord with or opposed to the person's physical anatomy,  
9 chromosomal sex or sex at birth;

10 (4) "minor" means a person under eighteen  
11 years of age; and

12 (5) "sexual orientation" means  
13 heterosexuality, homosexuality or bisexuality, whether actual  
14 or perceived.

15 [~~F.~~] K. Licensees whose licenses are in a  
16 probationary status shall pay reasonable expenses for  
17 maintaining probationary status, including laboratory costs  
18 when laboratory testing of biological fluids is included as a  
19 condition of probation."

20 SECTION 5. Section 61-6-16 NMSA 1978 (being Laws 1989,  
21 Chapter 269, Section 12, as amended) is amended to read:

22 "61-6-16. REPORTING OF SETTLEMENTS AND JUDGMENTS,  
23 PROFESSIONAL REVIEW ACTIONS AND ACCEPTANCE OF SURRENDERED  
24 LICENSE--IMMUNITY FROM CIVIL DAMAGES--PENALTY.--

25 A. The board shall run a continuous query on the

1 national practitioner data bank with respect to each licensee  
2 for whom the national practitioner data bank contains relevant  
3 information.

4           ~~[A.]~~ B. All entities that make payments under a  
5 policy of insurance, self-insurance or otherwise in settlement  
6 or satisfaction of a judgment in a medical malpractice action  
7 or claim, hospitals, health care entities and professional  
8 review bodies shall report to the board all payments relating  
9 to malpractice actions or claims arising in New Mexico that  
10 involve a licensee and that are paid as a direct result of the  
11 licensee's care, all appropriate professional review actions of  
12 licensees and the acceptance or surrender of clinical  
13 privileges by a licensee while under investigation or in lieu  
14 of an investigation. For the purposes of this section, the  
15 meaning of these terms shall be as contained in Section 431 of  
16 the federal Health Care Quality Improvement Act of 1986, 42  
17 USCA Section 11151.

18           ~~[B.]~~ C. The hospitals required to report under this  
19 section, health care entities or professional review bodies  
20 that provide such information in good faith shall not be  
21 subject to suit for civil damages as a result of providing the  
22 information.

23           ~~[C.]~~ D. A hospital, health care entity or  
24 professional review body failing to comply with the reporting  
25 requirements provided in this section shall be subject to civil

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penalty not to exceed ten thousand dollars (\$10,000)."

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underscored material = new  
[bracketed material] = delete

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