

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 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."

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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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1 Chapter 46, Section 6, as amended) is amended to read:

2 "61-6-15. LICENSE MAY BE REFUSED, REVOKED OR SUSPENDED--
3 LICENSEE MAY BE FINED, CENSURED OR REPRIMANDED--PROCEDURE--
4 PRACTICE AFTER SUSPENSION OR REVOCATION--PENALTY--
5 UNPROFESSIONAL AND DISHONORABLE CONDUCT DEFINED--FEES AND
6 EXPENSES.--

7 A. The board may refuse to license and may revoke
8 or suspend a license that has been issued by the board or a
9 previous board and may fine, censure or reprimand a licensee
10 upon satisfactory proof being made to the board that the
11 applicant for or holder of the license has been guilty of
12 unprofessional or dishonorable conduct. The board may also
13 refuse to license an applicant who is unable to practice as a
14 physician, practice as a physician assistant, an
15 anesthesiologist assistant, a genetic counselor, a naturopathic
16 practitioner, a naprapathic practitioner or a podiatric
17 physician or practice polysomnography, pursuant to Section
18 61-7-3 NMSA 1978. All proceedings shall be as required by the
19 Uniform Licensing Act or the Impaired Health Care Provider Act.

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

25 (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

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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 [C.] 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

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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

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

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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;

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;

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

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

[E.] J. As used in this section:

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

"Conversion therapy" does not mean:

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

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

(2) "fee splitting" includes offering, delivering, receiving or accepting any unearned rebate, refunds, commission preference, patronage dividend, discount or other unearned consideration, whether in the form of money or 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

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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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