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HOUSE BILL 788

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

NICK L. SALAZAR

AN ACT

RELATING TO HEALTH PROVIDERS; AMENDING THE PHYSICIAN ASSISTANT ACT AND THE OSTEOPATHIC PHYSICIANS' ASSISTANTS ACT TO PROVIDE FOR LICENSURE.

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

Section 1. Section 61-6-7 NMSA 1978 (being Laws 1973, Chapter 361, Section 3, as amended by Laws 1994, Chapter 57, Section 13 and also by Laws 1994, Chapter 80, Section 2) is amended to read:

"61-6-7. SHORT TITLE-- [~~REGISTRATION~~] LICENSURE AS A PHYSICIAN ASSISTANT-- SCOPE OF PRACTICE-- [~~ANNUAL~~] BIENNIAL REGISTRATION OF [~~EMPLOYMENT--EMPLOYMENT~~] SUPERVISION-- CHANGE-- FEES.--

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

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1           B. The board may ~~[register]~~ license qualified  
2 persons as physician assistants. No person shall perform,  
3 attempt to perform or hold himself out as a physician assistant  
4 without first applying for and obtaining ~~[registration with]~~ a  
5 license from the board and without ~~[annually]~~ biennially  
6 registering his ~~[employment and]~~ supervising licensed physician  
7 in accordance with board regulations. Physician assistants who  
8 are registered under the Physician Assistant Act as of June 31,  
9 1997 shall be considered to be licensed until the expiration of  
10 that registration.

11           C. Physician assistants may prescribe, administer  
12 and distribute dangerous drugs other than controlled substances  
13 in Schedule I of the Controlled Substances Act pursuant to  
14 regulations adopted by the ~~[New Mexico]~~ board ~~[of medical~~  
15 ~~examiners]~~ after consultation with the board of pharmacy,  
16 provided that the prescribing, administering and distributing  
17 are done under the direction of a supervising licensed physician  
18 and within the parameters of a board-approved formulary and  
19 guidelines established under Paragraph (3) of Subsection A of  
20 Section 61-6-9 NMSA 1978. The distribution process shall comply  
21 with state laws concerning prescription packaging, labeling and  
22 record keeping requirements. Physician assistants shall not  
23 otherwise dispense dangerous drugs or controlled substances.

24           D. A physician assistant shall perform only those  
25 acts and duties assigned him by a supervising licensed physician

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1 that are within the scope of practice of the supervising  
2 licensed physician.

3 E. An applicant for ~~[registration]~~ licensure as a  
4 physician assistant shall complete application forms ~~[as]~~  
5 supplied by the board and shall pay a ~~[registration]~~ licensing  
6 fee as provided in Section 61-6-19 NMSA 1978. Upon being  
7 ~~[registered]~~ licensed by the board, the applicant shall have his  
8 name and address and other pertinent information enrolled by the  
9 board on a roster of physician assistants.

10 F. Each ~~[registered]~~ physician assistant shall  
11 ~~[annually]~~ biennially submit proof of completion of continuing  
12 education as required by the board and shall ~~[annually]~~  
13 biennially renew his ~~[registration, supervising licensed~~  
14 ~~physician and place of employment]~~ license and registration of  
15 supervision with the board. Upon any change in ~~[employment or]~~  
16 supervising ~~[licensed]~~ physician between ~~[annual]~~ biennial  
17 registrations, each physician assistant shall reregister his  
18 ~~[employment and]~~ supervising ~~[licensed]~~ physician and shall pay  
19 any additional registration of supervision fees as provided in  
20 Section 61-6-19 NMSA 1978. All applications for ~~[registration]~~  
21 licensure or registration of supervision shall include the  
22 applicant's name, current address, the name and office address  
23 of ~~[both his employer and]~~ the supervising licensed physician  
24 and other additional information as the board deems necessary.  
25 Upon any change ~~[of employment or change]~~ of supervising

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1 licensed physician, prior registration of supervision shall  
2 automatically become void or inactive.

3 G. Each [~~annual~~] biennial renewal of registration of  
4 [~~employment~~] supervision shall be accompanied by a fee as  
5 provided in Section 61-6-19 NMSA 1978. "

6 Section 2. A new section of the Physician Assistant Act,  
7 Section 61-6-7.2 NMSA 1978, is enacted to read:

8 "61-6-7.2. [NEW MATERIAL] INACTIVE LICENSE. --

9 A. A physician assistant who notifies the board in  
10 writing on forms prescribed by the board may elect to place his  
11 license on an inactive status. A physician assistant with an  
12 inactive license shall be excused from payment of renewal fees  
13 and shall not practice as a physician assistant.

14 B. A physician assistant who engages in practice  
15 while his license is lapsed or on inactive status is practicing  
16 without a license, and this is grounds for discipline pursuant  
17 to the Physician Assistant Act.

18 C. A physician assistant requesting restoration from  
19 inactive status shall pay the current renewal fee and fulfill  
20 the requirement for renewal pursuant to the Physician Assistant  
21 Act. "

22 Section 3. A new section of the Physician Assistant Act,  
23 Section 61-6-7.3 NMSA 1978, is enacted to read:

24 "61-6-7.3. [NEW MATERIAL] EXEMPTION FROM LICENSURE. --

25 A. A physician assistant student enrolled in a

1 physician assistant or surgeon assistant educational program  
2 accredited by the committee on allied health education and  
3 accreditation or by its successor shall be exempt from licensure  
4 while functioning as a physician assistant student.

5 B. A physician assistant employed by the federal  
6 government while performing duties incident to that employment  
7 is not required to be licensed as a physician assistant pursuant  
8 to the Physician Assistant Act. "

9 Section 4. Section 61-6-8 NMSA 1978 (being Laws 1973,  
10 Chapter 361, Section 4, as amended) is amended to read:

11 "61-6-8. DENIAL, SUSPENSION OR REVOCATION. --In accordance  
12 with the procedures contained in the Uniform Licensing Act, the  
13 board may deny, revoke or suspend any [~~registration~~] license to  
14 practice as a physician assistant or may place on probation,  
15 enter stipulation, censure, reprimand or fine any person  
16 [~~registered~~] licensed as a physician assistant for:

17 A. procuring, aiding or abetting a criminal  
18 abortion;

19 B. soliciting patients for any practitioner of the  
20 healing arts;

21 C. soliciting or receiving any form of compensation  
22 from any person other than the physician assistant's registered  
23 employer for performing as a physician assistant;

24 D. willfully or negligently divulging a professional  
25 confidence or discussing a patient's condition or a physician's

1 diagnosis without the express permission of the physician and  
2 patient;

3 E. conviction for any offense punishable by  
4 incarceration in a state penitentiary or federal prison. A copy  
5 of the record of conviction, certified by the clerk of the court  
6 entering the conviction, is conclusive evidence;

7 F. the habitual or excessive use of intoxicants or  
8 drugs;

9 G. fraud or misrepresentation in applying for or  
10 procuring [~~registration~~] a license to perform as a physician  
11 assistant in this state or in applying for or procuring [~~an~~  
12 ~~annual registration~~] a registration of supervision;

13 H. impersonating another person [~~registered~~]  
14 licensed as a physician assistant or allowing any person to use  
15 the physician assistant's [~~certificate of qualification or~~  
16 ~~registration~~] license or registration of supervision;

17 I. aiding or abetting the practice of medicine by a  
18 person not licensed by the board;

19 J. gross negligence in the performance of duties,  
20 tasks or functions assigned by a licensed physician;

21 K. manifest incapacity or incompetence to perform as  
22 a physician assistant;

23 L. conduct resulting in the suspension or revocation  
24 by another state of a registration, license or certification to  
25 perform as a physician assistant, based upon acts by the

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1 physician assistant similar to acts constituting grounds for  
2 suspension or revocation in New Mexico. A certified copy of the  
3 record of the suspension or revocation of the state imposing the  
4 penalty is conclusive evidence thereof;

5 M. conduct unbecoming in a person [~~registered~~]  
6 licensed as a physician assistant or detrimental to the best  
7 interests of the public;

8 N. conduct outside the scope of duties assigned by  
9 the supervising physician;

10 O. repeated similar negligent acts; or

11 P. injudicious prescribing, administering or  
12 distributing of drugs. "

13 Section 5. A new section of the Physician Assistant Act,  
14 Section 61-6-8.1 NMSA 1978, is enacted to read:

15 "61-6-8.1. [NEW MATERIAL] PHYSICIAN ASSISTANT ADVISORY  
16 COMMITTEE. --

17 A. The "physician assistant advisory committee" is  
18 created. The advisory committee shall review and make  
19 recommendations to the board on all matters relating to  
20 physician assistants.

21 B. The physician assistant advisory committee shall  
22 be composed of four members appointed by the board to two-year  
23 staggered terms. The board shall initially appoint two members  
24 whose terms shall end on July 1, 1998 and two members whose  
25 terms shall end on July 1, 1999. One member shall be a licensed

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1 physician with experience supervising a physician assistant, and  
2 the other three, one of whom shall serve as chairman, shall be  
3 physician assistants nominated to the board by the board of  
4 directors of the New Mexico academy of physician assistants.  
5 The chairman of the physician assistant advisory committee shall  
6 be a nonvoting advisor to the board."

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

9 "61-6-9. PHYSICIAN ASSISTANTS--RULES AND REGULATIONS.--

10 A. The board may adopt and enforce reasonable rules  
11 and regulations:

12 (1) for setting qualifications of education,  
13 skill and experience for [~~registration~~] licensure of a person as  
14 a physician assistant and providing forms and procedures for  
15 [~~obtaining certificates of registration and for annual~~] biennial  
16 licensure and registration of [~~employment, supervising~~]  
17 supervision by a licensed physician [~~and place of employment~~];

18 (2) for examining and evaluating applicants for  
19 [~~registration~~] licensure as a physician assistant as to their  
20 skill, knowledge and experience in the field of medical care;

21 (3) for establishing when and for how long  
22 physician assistants are permitted to prescribe, administer and  
23 distribute dangerous drugs other than controlled substances in  
24 Schedule I of the Controlled Substances Act pursuant to  
25 regulations adopted by the board after consultation with the

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1 board of pharmacy;

2 (4) for allowing a supervising licensed  
3 physician to temporarily delegate his supervisory  
4 responsibilities for a physician assistant to another licensed  
5 physician;

6 (5) for allowing a physician assistant to  
7 temporarily serve under the supervision of a licensed physician  
8 other than the supervising licensed physician of record; and

9 (6) for the purpose of carrying out all other  
10 provisions of the Physician Assistant Act.

11 B. The board shall not adopt any rule or regulation  
12 allowing a physician assistant to measure the powers, range or  
13 accommodative status of human vision; diagnose vision problems;  
14 prescribe lenses, prisms, vision training or contact lenses; or  
15 fit contact lenses. This restriction does not preclude vision  
16 screening. The board shall not adopt any rule or regulation  
17 allowing a physician assistant to perform treatment of the human  
18 foot outside the physician assistant's scope of practice. "

19 Section 7. Section 61-6-10 NMSA 1978 (being Laws 1973,  
20 Chapter 361, Section 6, as amended) is amended to read:

21 "61-6-10. SUPERVISING PHYSICIAN--RESPONSIBILITY. --

22 A. As a condition of [~~registration and annual~~]  
23 biennial licensure and renewal of registration of supervision,  
24 all physician assistants practicing in New Mexico shall inform  
25 the board of the physician under whose supervision they will

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1 practice. All supervising physicians shall be licensed under  
2 the Medical Practice Act and shall be approved by the board.

3 B. Every physician [~~using~~] supervising [~~or employing~~  
4 ~~a registered~~] a licensed physician assistant shall be  
5 individually responsible and liable for the performance of the  
6 acts and omissions delegated to the physician assistant.  
7 Nothing in this section shall be construed to relieve the  
8 physician assistant of any responsibility and liability for any  
9 of his own acts and omissions.

10 C. No physician may have under his supervision more  
11 than two [~~currently registered~~] physician assistants; except,  
12 where a physician is working in a health facility providing  
13 health service to the public primarily on a free or reduced fee  
14 basis, [~~which~~] that is funded in whole or in part out of public  
15 funds or the funds of private charitable institutions, the board  
16 may authorize a greater number upon a finding that the program  
17 provides adequate supervision of the physician assistants.

18 D. The board shall establish rules and regulations  
19 regarding the supervision of physician assistants by physicians,  
20 but no rule or regulation shall prohibit a physician assistant  
21 from providing services physically separated from the  
22 supervising physician."

23 Section 8. Section 61-6-19 NMSA 1978 (being Laws 1989,  
24 Chapter 269, Section 15, as amended) is amended to read:

25 "61-6-19. FEES. --

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- 1                   A. The board shall impose the following fees:
- 2                   (1) an application fee not to exceed four
- 3 hundred dollars (\$400) for licensure by endorsement as provided
- 4 in Section 61-6-13 NMSA 1978;
- 5                   (2) an application fee not to exceed four
- 6 hundred dollars (\$400) for licensure by examination as provided
- 7 in Section 61-6-11 NMSA 1978;
- 8                   (3) an examination fee equal to the cost of
- 9 purchasing the examination plus an administration fee not to
- 10 exceed fifty percent of that cost;
- 11                   (4) a triennial renewal fee not to exceed four
- 12 hundred fifty dollars (\$450);
- 13                   (5) a late fee not to exceed one hundred fifty
- 14 dollars (\$150) for applicants who fail to renew their [~~license~~]
- 15 licenses within forty-five days of the required renewal date;
- 16                   (6) a late fee not to exceed two hundred
- 17 dollars (\$200) for applicants who fail to renew their licenses
- 18 within ninety days of the required renewal date;
- 19                   (7) a reinstatement fee not to exceed the
- 20 current application fee for reinstatement of a revoked,
- 21 suspended or inactive license;
- 22                   (8) a reasonable administrative fee for
- 23 verification and duplication of license or registration and
- 24 copying of records;
- 25                   (9) a reasonable publication fee for the

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1 purchase of a publication containing the names of all  
2 practitioners licensed under the Medical Practice Act;

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

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

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

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

11 (14) an application fee not to exceed one  
12 hundred fifty dollars (\$150) for physician assistants applying  
13 for initial [~~registration~~] licensure; and

14 (15) a [~~registration~~] license fee not to exceed  
15 [~~seventy-five dollars (\$75.00)] one hundred fifty dollars (\$150)  
16 for physician assistants [~~annually reregistering their~~  
17 ~~certificate of registration~~] biennial licensing and registration  
18 of supervising physician [~~and place of employment~~].~~

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

21 Section 9. Section 61-10A-4 NMSA 1978 (being Laws 1979,  
22 Chapter 26, Section 4, as amended by Laws 1994, Chapter 57,  
23 Section 15 and also by Laws 1994, Chapter 80, Section 13) is  
24 amended to read:

25 "61-10A-4. [~~CERTIFICATION~~] LICENSURE AS OSTEOPATHIC

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1     ~~[PHYSICIAN'S]~~ PHYSICIAN ASSISTANT--SCOPE OF AUTHORITY--ANNUAL  
2     REGISTRATION OF EMPLOYMENT--EMPLOYMENT CHANGE. --

3             A. No person shall perform or attempt to perform as  
4     an osteopathic ~~[physician's]~~ physician assistant without first  
5     applying for and obtaining a ~~[certificate of qualification]~~  
6     license from the board as an osteopathic ~~[physician's]~~ physician  
7     assistant and having his ~~[employment]~~ supervision registered in  
8     accordance with board regulations. Osteopathic physician  
9     assistants who are certified under the Osteopathic Physicians'  
10    Assistants Act as of June 30, 1997 shall be considered to be  
11    licensed until the expiration of that certification.

12            B. Osteopathic ~~[physician's]~~ physician assistants  
13    may prescribe, administer and distribute dangerous drugs other  
14    than controlled substances in Schedule I of the Controlled  
15    Substances Act pursuant to regulations adopted by the ~~[New~~  
16    ~~Mexico]~~ board ~~[of osteopathic medical examiners]~~ after  
17    consultation with the board of pharmacy, provided that the  
18    prescribing, administering and distributing are done under the  
19    direction of a supervising osteopathic physician and within the  
20    parameters of a board-approved formulary and guidelines  
21    established under Paragraph (3) of Subsection A of Section  
22    61-10A-6 NMSA 1978. The distribution process shall comply with  
23    state laws concerning prescription packaging, labeling and  
24    record keeping requirements. Osteopathic ~~[physician's]~~  
25    physician assistants shall not otherwise dispense dangerous

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1 drugs or controlled substances.

2 C. An osteopathic [~~physician's~~] physician assistant  
3 shall perform only those acts and duties assigned him by a  
4 supervising osteopathic physician that are within the scope of  
5 practice of the supervising osteopathic physician.

6 D. An applicant for a [~~certificate of qualification~~]  
7 license as an osteopathic [~~physician's~~] physician assistant  
8 shall complete such application forms as supplied by the board  
9 and pay a fee as provided in Section [~~6-10A-4.1~~] 61-10A-4.1 NMSA  
10 1978. Upon [~~being certified~~] licensing by the board, the  
11 applicant shall have his name and address and other pertinent  
12 information enrolled by the board on a roster of osteopathic  
13 [~~physician's~~] physician assistants.

14 E. Each [~~certified~~] osteopathic [~~physician's~~]  
15 physician assistant shall [~~annually~~] biennially submit proof of  
16 completion of continuing education as required by the board and  
17 register [~~his employment with the board, stating~~] his name and  
18 current address, the name and office address of [~~both his~~  
19 ~~employer and~~] the supervising osteopathic physician and such  
20 additional information as the board deems necessary. Upon any  
21 change of [~~employment~~] supervision as an osteopathic  
22 [~~physician's~~] physician assistant, [~~such registration~~] the  
23 registration of supervision shall automatically be void. Each  
24 [~~annual~~] biennial registration or registration of new  
25 [~~employment~~] supervision shall be accompanied by a fee as

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1 provided in Section 61-10A-4.1 NMSA 1978. "

2 Section 10. Section 61-10A-4.1 NMSA 1978 (being Laws 1989,  
3 Chapter 9, Section 8) is amended to read:

4 "61-10A-4.1. FEES.--Applicants shall pay the following  
5 fees:

6 A. an initial [~~certification~~] license fee of not to  
7 exceed one hundred fifty dollars (\$150);

8 B. [~~an annual registration of certification~~] a  
9 biennial license fee of not to exceed [~~fifty dollars (\$50.00)]~~  
10 one hundred dollars (\$100);

11 C. a late fee not to exceed twenty-five dollars  
12 (\$25.00) for applicants who fail to register their  
13 [~~certificates~~] licenses on or before July 1 of each year; and

14 D. a registration of new [~~employment~~] supervision  
15 fee [~~in an amount equal to the annual~~] equal to one-half the  
16 biennial renewal fee. "

17 Section 11. A new Section 61-10A-4.2 NMSA 1978 is enacted  
18 to read:

19 "61-10A-4.2. [NEW MATERIAL] INACTIVE LICENSE. --

20 A. An osteopathic physician assistant who notifies  
21 the board in writing on forms prescribed by the board may elect  
22 to place his license on an inactive status. An osteopathic  
23 physician assistant with an inactive license shall be excused  
24 from payment of renewal fees and shall not practice as an  
25 osteopathic physician assistant.

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1           B. An osteopathic physician assistant who engages in  
2 practice while his license is lapsed or on inactive status is  
3 practicing without a license and is subject to discipline  
4 pursuant to the Osteopathic Physicians' Assistants Act.

5           C. An osteopathic physician assistant requesting  
6 restoration from inactive status shall pay the current renewal  
7 fee and fulfill the requirement for renewal pursuant to the  
8 Osteopathic Physicians' Assistants Act. "

9           Section 12. A new Section 61-10A-4.3 NMSA 1978 is enacted  
10 to read:

11           "61-10A-4.3. [NEW MATERIAL] EXEMPTION FROM LICENSURE. --

12           A. An osteopathic physician assistant student  
13 enrolled in a physician assistant, osteopathic physician  
14 assistant or surgeon assistant educational program accredited by  
15 the committee on allied health education and accreditation or by  
16 its successor shall be exempt from licensure while functioning  
17 as an osteopathic physician assistant student.

18           B. An osteopathic physician assistant employed by  
19 the federal government while performing duties incident to that  
20 employment is not required to be licensed as an osteopathic  
21 physician assistant pursuant to the Osteopathic Physicians'  
22 Assistants Act. "

23           Section 13. Section 61-10A-6 NMSA 1978 (being Laws 1979,  
24 Chapter 26, Section 6, as amended by Laws 1994, Chapter 57,  
25 Section 16 and also by Laws 1994, Chapter 80, Section 14) is

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1 amended to read:

2 "61-10A-6. RULES AND REGULATIONS. --

3 A. The board may adopt and enforce reasonable rules  
4 and regulations:

5 (1) for setting qualifications of education,  
6 skill and experience for [~~certification~~] licensure of a person  
7 as an osteopathic [~~physician's~~] physician assistant and  
8 providing forms and procedures for [~~certificates of~~  
9 qualification] licensure and for [~~annual~~] biennial registration  
10 of [~~employment~~] supervision;

11 (2) for examining and evaluating applicants for  
12 [~~certificates of qualification~~] licensure as an osteopathic  
13 [~~physician's~~] physician assistant as to their skill, knowledge  
14 and experience in the field of medical care;

15 (3) for establishing when and for how long an  
16 osteopathic [~~physician's~~] physician assistant is permitted to  
17 prescribe, administer and distribute dangerous drugs other than  
18 controlled substances in Schedule I of the Controlled Substances  
19 Act pursuant to regulations adopted by the [~~New Mexico~~] board  
20 [~~of osteopathic medical examiners~~] after consultation with the  
21 board of pharmacy;

22 (4) for allowing a supervising osteopathic  
23 physician to temporarily delegate his supervisory  
24 responsibilities for an osteopathic [~~physician's~~] physician  
25 assistant to another osteopathic physician;

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1 (5) for allowing an osteopathic [~~physician's~~]  
2 physician assistant to temporarily serve under the supervision  
3 of an osteopathic physician other than the supervising  
4 osteopathic physician of record; and

5 (6) for the purpose of carrying out all other  
6 provisions of the Osteopathic Physicians' Assistants Act.

7 B. The board shall not adopt any rule or regulation  
8 allowing an osteopathic [~~physician's~~] physician assistant to  
9 dispense dangerous drugs; to measure the powers, range or  
10 accommodative status of human vision; diagnose vision problems;  
11 prescribe lenses, prisms, vision training or contact lenses; or  
12 fit contact lenses. This section shall not preclude vision  
13 screening.

14 C. The board shall establish rules and regulations  
15 regarding the supervision of osteopathic physician assistants by  
16 osteopathic physicians, but no rule or regulation shall prohibit  
17 an osteopathic physician assistant from providing services  
18 physically separated from the supervising licensed osteopathic  
19 physician."

20 Section 14. EFFECTIVE DATE. --The effective date of the  
21 provisions of this act is July 1, 1997.

**State of New Mexico**  
**House of Representatives**

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4 FORTY-THIRD LEGISLATURE  
5 FIRST SESSION, 1997  
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9 February 25, 1997  
10

11 Mr. Speaker:  
12

13 Your CONSUMER AND PUBLIC AFFAIRS COMMITTEE, to  
14 whom has been referred

15  
16 HOUSE BILL 788

17 has had it under consideration and reports same with  
18 recommendation that it DO PASS, amended as follows:  
19

20 1. On page 1, between lines 15 and 16, insert the following  
21 new section:  
22

23 "Section 1. Section 61-6-6 NMSA 1978 (being Laws 1973,  
24 Chapter 361, Section 1, as amended) is amended to read:

25 "61-6-6. DEFINITIONS. -- As used in Chapter 61, Article 6 NMSA  
1978:

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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A. "acting in good faith" means acting without malice as the primary motive or without knowledge or belief that one is in error in taking a particular action;

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

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

D. "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;

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

F. "person" means an individual or any legal entity of any kind whatever;

G. "physician assistant" means a skilled person ~~[registered]~~ licensed by the board as being qualified by academic and practical training to provide patient services under the

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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2 supervision and direction of the licensed physician who is  
3 responsible for the performance of that assistant;

4  
5 H. "postgraduate year one" or "intern" means a first  
6 year postgraduate student upon whom a degree of doctor of medicine  
7 and surgery or equivalent degree has been conferred by a medical  
8 college or school in good standing [~~approved by the board~~];

9  
10 I. "postgraduate year two through eight" or "resident"  
11 means a graduate of a medical college or school in good standing  
12 [~~approved by the board~~] who is in training in a board-approved and  
13 accredited residency training program in a hospital or facility  
14 affiliated with an approved hospital and who has been appointed to  
15 the position of "resident" or "assistant resident" for the purpose  
16 of postgraduate medical training;

17  
18 J. "the practice of medicine" consists of:

19  
20 (1) advertising, holding out to the public or  
21 representing in any manner that one is authorized to practice  
22 medicine in this state;

23  
24 (2) offering or undertaking to administer,  
25 dispense or prescribe any drug or medicine for the use of any  
other 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

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administer, dispense or prescribe any drug or medicine for the use of any other person, except as directed by a licensed physician;

(4) offering or undertaking to perform any operation or procedure upon any 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 any 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 any person in doing any of the things listed in Paragraphs (1) through (6) of this subsection;

K. "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;

Underscored material = new  
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L. "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

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

2. Renumber succeeding sections accordingly.

3. On page 5, lines 7 and 8, strike "pursuant to the Physician Assistant Act".

4. On page 8, line 3, strike "nominated to the board" and insert in lieu thereof "chosen".

5. On page 8, line 3, after the second "board" insert "from a list provided by the board".

6. On page 8, line 4, after "assistants." insert "All physician assistants shall be eligible for inclusion on the list."

7. On page 10, line 17, after the period insert a quotation mark.

8. On page 10, strike Subsection D in its entirety.

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9. On page 18, line 13, after the period insert a quotation mark.

10. On page 18, strike Subsection C in its entirety.,  
and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

\_\_\_\_\_  
Gary King, Chairman

Adopted \_\_\_\_\_

Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

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The roll call vote was 7 For 0 Against

Yes: 7

Excused: Crook, Rios, Vigil

Absent: None

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# **State of New Mexico House of Representatives**

**FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997**

**March 10, 1997**

**Mr. Speaker:**

**Your JUDICIARY COMMITTEE, to whom has been referred**

**HOUSE BILL 788, as amended**

**has had it under consideration and reports same with  
recommendation that it DO PASS.**

**Respectfully submitted,**

---

**Thomas P. Foy, Chairman**

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 11 For 0 Against

Yes: 11

Excused: King, Rios

Absent: None

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

March 17, 1997

Mr. President:

Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

HOUSE BILL 788, as amended

has had it under consideration and reports same with recommendation that it DO PASS.

Respectfully submitted,

---

Shannon Robinson, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

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(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Boitano, Ingle, Vernon, Rodarte,

Absent: 0

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