HOUSE BILL 939

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

INTRODUCED BY

DANICE PICRAUX

AN ACT

RELATING TO PROFESSIONAL LICENSING; AMENDING SECTIONS OF THE NMSA 1978 TO INCLUDE CLINICAL NURSE SPECIALISTS IN THE ADVANCED PRACTICE NURSING AUTHORIZATION OF PHARMACEUTICAL PRESCRIPTIONS, TO DEFINE THE PRACTICE OF NURSING, TO CHANGE CERTIFICATION PROCEDURES, TO EXTEND THE DEADLINE FOR REPORTING ON THE MEDICATION AIDE TRIAL PROGRAM, TO CHANGE THE LANGUAGE FOR LICENSURE AS A REGISTERED NURSE, TO PROVIDE FOR REGIONAL ADVISORY COMMITTEES AND DIVERSION PROGRAM CONTRACTS, TO CHANGE REQUIREMENTS FOR A PUBLIC MEMBER ON THE BOARD OF NURSING AND TO EXTEND THE NURSING PRACTICE ACT.

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

Section 1. Section 26-1-2 NMSA 1978 (being Laws 1967, Chapter 23, Section 2, as amended) is amended to read:

"26-1-2. DEFINITIONS.--As used in the New Mexico Drug,

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Device and Cosmetic Act:

A. "board" means the board of pharmacy or its duly authorized agent;

B. "person" includes individual, partnership, corporation, association, institution or establishment;

C. "biological product" means any virus, therapeutic serum, toxin, antitoxin or analogous product applicable to the prevention, treatment or cure of diseases or injuries of man and domestic animals, and, as used within the meaning of this definition:

(1) a "virus" is interpreted to be a product containing the minute living cause of an infectious disease and includes but is not limited to filterable viruses, bacteria, rickettsia, fungi and protozoa;

(2) a "therapeutic serum" is a product obtained from blood by removing the clot or clot components and the blood cells;

(3) a "toxin" is a product containing a soluble substance poisonous to laboratory animals or man in doses of one milliliter or less of the product and having the property, following the injection of nonfatal doses into an animal, or causing to be produced therein another soluble substance [~~which~~] that specifically neutralizes the poisonous substance and [~~which~~] that is demonstrable in the serum of the animal thus immunized; and

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(4) an "antitoxin" is a product containing the soluble substance in serum or other body fluid of an immunized animal [~~which~~] that specifically neutralizes the toxin against which the animal is immune;

D. "controlled substance" means any drug, substance or immediate precursor enumerated in Schedules I through V of the Controlled Substances Act;

E. "drug" means:

(1) articles recognized in an official compendium;

(2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals and includes the domestic animal biological products regulated under the federal Virus-Serum-Toxin Act, 37 Stat 832-833, 21 U.S.C. 151-158 and the biological products applicable to man regulated under Federal 58 Stat 690, as amended, 42 U.S.C. 216, Section 351, and 58 Stat 702, as amended, 42 U.S.C. 262;

(3) articles other than food [~~which~~] that affect the structure or any function of the body of man or other animals; and

(4) articles intended for use as a component of Paragraph (1), (2) or (3) of this subsection, but does not include devices or their component parts or accessories;

F. "dangerous drug" means a drug, other than a

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controlled substance enumerated in Schedule I of the Controlled Substances Act, [~~which~~] that because of any potentiality for harmful effect or the method of its use or the collateral measures necessary to its use is not safe except under the supervision of a practitioner licensed by law to direct the use of such drug and hence for which adequate directions for use cannot be prepared. "Adequate directions for use" means directions under which the layman can use a drug or device safely and for the purposes for which it is intended. A drug shall be dispensed only upon the prescription of a practitioner licensed by law to administer or prescribe such drug if it:

(1) is a habit-forming drug and contains any quantity of a narcotic or hypnotic substance, or any chemical derivative of such substance, [~~which~~] that has been found under the federal act and the board to be habit-forming;

(2) because of its toxicity or other potentiality for harmful effect or the method of its use or the collateral measures necessary to its use is not safe for use except under the supervision of a practitioner licensed by law to administer or prescribe such drug;

(3) is limited by an approved application by Section 505 of the federal act to the use under the professional supervision of a practitioner licensed by law to administer or prescribe such drug;

(4) bears the legend: "Caution: federal law

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prohibits dispensing without prescription."; or

(5) bears the legend: "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian.";

G. "counterfeit drug" means a drug other than a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name or other identifying mark, imprint or device, or any likeness, of a drug manufacturer, processor, packer or distributor other than the person who in fact manufactured, processed, packed or distributed such drug and [~~which~~] that falsely purports or is represented to be the product of or to have been packed or distributed by such other drug manufacturer, processor, packer or distributor;

H. "device", except when used in Subsection P of this section and in Subsection G of Section 26-1-3, Subsection L and Paragraph (4) of Subsection A of Section 26-1-11 and Subsection C of Section 26-1-24 NMSA 1978, means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including any component, part or accessory, [~~which~~] that is:

(1) recognized in an official compendium;

(2) intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment or prevention of disease, in man or other animals; or

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(3) intended to affect the structure or any function of the body of man or other animals and [~~which~~] that does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animals and [~~which~~] that is not dependent upon being metabolized for achievement of any of its principal intended purposes;

I. "prescription" means an order given individually for the person for whom prescribed, either directly from the prescriber to the pharmacist or indirectly by means of a written order signed by the prescriber, and bearing the name and address of the prescriber, his license classification, the name and address of the patient, the name and quantity of the drug prescribed, directions for use and the date of issue. No person other than a practitioner shall prescribe or write a prescription;

J. "practitioner" means a physician, dentist, veterinarian, certified nurse practitioner, clinical nurse specialist or other person licensed to prescribe and administer drugs [~~which~~] that are subject to the New Mexico Drug, Device and Cosmetic Act;

K. "cosmetic" means:

(1) articles intended to be rubbed, poured, sprinkled or sprayed on, introduced into or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness or altering the appearance; and

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(2) articles intended for use as a component of any articles enumerated in Paragraph (1) of this subsection, except that the term shall not include soap;

L. "official compendium" means the official United States pharmacopoeia national formulary or the official homeopathic pharmacopoeia of the United States or any supplement to either of them;

M. "label" means a display of written, printed or graphic matter upon the immediate container of any article. A requirement made by or under the authority of the New Mexico Drug, Device and Cosmetic Act that any word, statement or other information appear on the label shall not be considered to be complied with unless the word, statement or other information also appears on the outside container or wrapper, if any, of the retail package of the article or is easily legible through the outside container or wrapper;

N. "immediate container" does not include package liners;

O. "labeling" means all labels and other written, printed or graphic matter:

(1) upon any article or any of its containers or wrappers; or

(2) accompanying any article;

P. "misbranded" means a label to an article [~~which~~] that is misleading. In determining whether the label is

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misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device or any combination of the foregoing, but also the extent to which the label fails to reveal facts material in the light of such representations or material with respect to consequences [~~which~~] that may result from the use of the article to which the label relates under the conditions of use prescribed in the label or under such conditions of use as are customary or usual;

Q. "advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or [~~which~~] that are likely to induce, directly or indirectly, the purchase of drugs, devices or cosmetics;

R. "antiseptic", when used in the labeling or advertisement of an antiseptic, shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be or represented as an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder or such other use as involves prolonged contact with the body;

S. "new drug" means:

(1) any drug, the composition of which is such that the drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the

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safety and efficacy of drugs, as safe and effective for use under the conditions prescribed, recommended or suggested in the labeling thereof; or

(2) any drug, the composition of which is such that the drug, as a result of investigation to determine its safety and efficacy for use under such conditions, has become so recognized, but [~~which~~] that has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions;

T. "contaminated with filth" applies to any drug, device or cosmetic not securely protected from dirt, dust and, as far as may be necessary by all reasonable means, from all foreign or injurious contaminations, or any drug, device or cosmetic found to contain any dirt, dust, foreign or injurious contamination or infestation;

U. "selling of drugs, devices or cosmetics" shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession and holding of any such article for sale and the sale and the supplying or applying of any such article in the conduct of any drug or cosmetic establishment;

V. "color additive" means a material [~~which~~] that:

(1) is a dye, pigment or other substance made by a process of synthesis or similar artifice or extracted, isolated or otherwise derived, with or without intermediate or

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final change of identity, from a vegetable, mineral, animal or other source; or

(2) when added or applied to a drug or cosmetic or to the human body or any part thereof, is capable, alone or through reaction with other substances, of imparting color thereto; except that such term does not include any material [~~which~~] that has been or hereafter is exempted under the federal act;

W. "federal act" means the Federal Food, Drug and Cosmetic Act;

X. "restricted device" means a device for which the sale, distribution or use is lawful only upon the written or oral authorization of a practitioner licensed by law to administer, prescribe or use the device and for which the federal food and drug administration requires special training or skills of the practitioner to use or prescribe. This definition does not include custom devices defined in the federal act and exempt from performance standards or premarket approval requirements under Section 520 (b) of the federal act; and

Y. "prescription device" means a device [~~which~~] that, because of its potential for harm, the method of its use or the collateral measures necessary to its use, is not safe except under the supervision of a practitioner licensed in this state to direct the use of such device and for which "adequate

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directions for use" cannot be prepared, but that bears the label: "Caution: Federal law restricts this device to sale by or on the order of a ", the blank to be filled with the word "physician", "dentist", "veterinarian", certified nurse practitioner, clinical nurse specialist or with the descriptive designation of any other practitioner licensed in this state to use, or order the use of, the device."

Section 2. Section 30-31-2 NMSA 1978 (being Laws 1972, Chapter 84, Section 2, as amended) is amended to read:

"30-31-2. DEFINITIONS.--As used in the Controlled Substances Act:

A. "administer" means the direct application of a controlled substance by any means to the body of a patient or research subject by a practitioner or his agent;

B. "agent" includes an authorized person who acts on behalf of a manufacturer, distributor or dispenser. ~~[It~~] "Agent" does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman;

C. "board" means the board of pharmacy;

D. "bureau" means the bureau of narcotics and dangerous drugs, United States department of justice, or its successor agency;

E. "controlled substance" means a drug or substance listed in Schedules I through V of the Controlled Substances Act or regulations adopted thereto;

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F. "counterfeit substance" means a controlled substance that bears the unauthorized trademark, trade name, imprint, number, device or other identifying mark or likeness of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the controlled substance;

G. "deliver" means the actual, constructive or attempted transfer from one person to another of a controlled substance or controlled substance analog, whether or not there is an agency relationship;

H. "dispense" means to deliver a controlled substance to an ultimate user or research subject pursuant to the lawful order of a practitioner, including the administering, prescribing, packaging, labeling or compounding necessary to prepare the controlled substance for that delivery;

I. "dispenser" means a practitioner who dispenses and includes hospitals, pharmacies and clinics where controlled substances are dispensed;

J. "distribute" means to deliver other than by administering or dispensing a controlled substance or controlled substance analog;

K. "drug" or "substance" means substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any respective supplement to [~~these~~] those

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publications. It does not include devices or their components, parts or accessories;

L. "hashish" means the resin extracted from any part of marijuana, whether growing or not, and every compound, manufacture, salt, derivative, mixture or preparation of such resins;

M. "manufacture" means the production, preparation, compounding, conversion or processing of a controlled substance or controlled substance analog by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance:

(1) by a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(2) by a practitioner, or by his agent under his supervision, for the purpose of or as an incident to research, teaching or chemical analysis and not for sale;

N. "marijuana" means all parts of the plant Cannabis, including any and all varieties, species and subspecies of the genus Cannabis, whether growing or not, the seeds thereof and every compound, manufacture, salt, derivative,

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mixture or preparation of the plant or its seeds. ~~[It~~] "Marijuana" does not include the mature stalks of the plant, hashish, tetrahydrocannabinols extracted or isolated from marijuana, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination;

O. "narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

(1) opium and opiate and any salt, compound, derivative or preparation of opium or opiate;

(2) any salt, compound, isomer, derivative or preparation that is a chemical equivalent of any of the substances referred to in Paragraph (1) of this subsection, except the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw, including all parts of the plant of the species Papaver somniferum L. except its seeds; or

(4) coca leaves and any salt, compound, derivative or preparation of coca leaves, any salt, compound, isomer, derivative or preparation that is a chemical equivalent

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of any of these substances except decocainized coca leaves or extractions of coca leaves that do not contain cocaine or [~~ecogonine~~] ecgonine;

P. "opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. Opiate does not include, unless specifically designated as controlled under Section 30-31-5 NMSA 1978, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). "Opiate" does include its racemic and levorotatory forms;

Q. "person" includes a partnership, corporation, association, institution, political subdivision, government agency or other legal entity;

R. "practitioner" means a physician, dentist, veterinarian, certified nurse practitioner, clinical nurse specialist or other person licensed to prescribe and administer drugs that are subject to the Controlled Substances Act;

S. "prescription" means an order given individually for the person for whom is prescribed a controlled substance, either directly from the prescriber to the pharmacist or indirectly by means of a written order signed by the prescriber, [~~and~~] in accordance with the Controlled Substances Act or regulations adopted thereto;

T. "scientific investigator" means a person

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registered to conduct research with controlled substances in the course of his professional practice or research and includes analytical laboratories;

U. "ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal under the care, custody and control of the person or by a member of his household;

V. "drug paraphernalia" means all equipment, products and materials of any kind that are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance or controlled substance analog in violation of the Controlled Substances Act. [~~It~~] "Drug paraphernalia" includes [~~but is not limited to~~]:

(1) kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting any species of plant that is a controlled substance or controlled substance analog or from which a controlled substance can be derived;

(2) kits used, intended for use or designed for use in manufacturing, compounding, converting, producing,

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processing or preparing controlled substances or controlled substance analogs;

(3) isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant that is a controlled substance;

(4) testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances or controlled substance analogs;

(5) scales or balances used, intended for use or designed for use in weighing or measuring controlled substances or controlled substance analogs;

(6) diluents and adulterants, such as quinine hydrochloride, mannitol, mannite dextrose and lactose, used, intended for use or designed for use in cutting controlled substances or controlled substance analogs;

(7) separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning and refining marijuana;

(8) blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances or controlled substance analogs;

(9) capsules, balloons, envelopes and other containers used, intended for use or designed for use in

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packaging small quantities of controlled substances or controlled substance analogs;

(10) containers and other objects used, intended for use or designed for use in storing or concealing controlled substances or controlled substance analogs;

(11) hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances or controlled substance analogs into the human body;

(12) objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

(a) metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls;

(b) water pipes;

(c) carburetion tubes and devices;

(d) smoking and carburetion masks;

(e) roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small to hold in the hand;

(f) miniature cocaine spoons and cocaine vials;

(g) chamber pipes;

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(h) carburetor pipes;

(i) electric pipes;

(j) air-driven pipes;

(k) chilams;

(l) bongs; or

(m) ice pipes or chillers; and

(13) in determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(a) statements by the owner or by anyone in control of the object concerning its use;

(b) the proximity of the object, in time and space, to a direct violation of the Controlled Substances Act or any other law relating to controlled substances or controlled substance analogs;

(c) the proximity of the object to controlled substances or controlled substance analogs;

(d) the existence of any residue of a controlled substance or controlled substance analog on the object;

(e) instructions, written or oral, provided with the object concerning its use;

(f) descriptive materials accompanying the object that explain or depict its use;

(g) the manner in which the object is

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displayed for sale; and

(h) expert testimony concerning its use;

W. "controlled substance analog" means a substance other than a controlled substance that has a chemical structure substantially similar to that of a controlled substance in Schedule I, II, III, IV or V or that was specifically designed to produce effects substantially similar to that of controlled substances in Schedule I, II, III, IV or V. Examples of chemical classes in which controlled substance analogs are found include [~~but are not limited to~~] the following:

(1) phenethylamines;

(2) N-substituted piperidines;

(3) morphinans;

(4) [~~ecogonines~~] ecgonines;

(5) quinazolinones;

(6) substituted indoles; and

(7) arylcycloalkylamines.

Specifically excluded from the definition of "controlled substance analog" are those substances that are generally recognized as safe and effective within the meaning of the Federal Food, Drug and Cosmetic Act or have been manufactured, distributed or possessed in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of Section 505 of the Federal Food, Drug and Cosmetic Act;

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X. "human consumption" includes application, injection, inhalation, ingestion or any other manner of introduction whatsoever; and

Y. "drug-free school zone" means any public school or property that is used for public school purposes and the area within one thousand feet of the school property line, but it does not mean any post-secondary school."

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

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

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

[~~A.~~] B. "board" means the board of nursing;

[~~B.~~] C. "certified nurse practitioner" means a registered nurse [~~whose qualifications are endorsed~~] who is licensed by the board for [~~expanded~~] advanced practice as a certified nurse practitioner and whose name and pertinent information are entered on the list of certified nurse practitioners maintained by the board;

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[~~C.~~] D. "certified registered nurse anesthetist" means a registered nurse [~~whose qualifications are endorsed~~] who is licensed by the board for [~~expanded~~] advanced practice as a certified registered nurse anesthetist and whose name and pertinent information are entered on the list of certified registered nurse anesthetists maintained by the board;

[~~D.~~] E. "clinical nurse specialist" means a registered nurse [~~whose qualifications are endorsed~~] who is licensed by the board for [~~expanded~~] advanced practice as a clinical nurse specialist and whose name and pertinent information are entered on the list of clinical nurse specialists maintained by the board;

[~~E.~~] F. "collaboration" means the cooperative working relationship with another health care provider in the provision of patient care, and such collaborative practice includes the discussion of patient diagnosis and cooperation in the management and delivery of health care;

[~~F. "expanded practice" means the practice of professional registered nursing by a registered nurse who has been prepared through a formal educational program in an institution of higher learning to function beyond the scope of practice of professional registered nursing;~~]

G. "licensed practical nurse" means a nurse who practices licensed practical nursing and whose name and pertinent information are entered in the register of licensed

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practical nurses maintained by the board;

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

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

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

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

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

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

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

J. "practice of nursing" means assisting

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individuals, families or communities in maintaining or attaining optimal health, assessing and implementing a plan of care to accomplish defined goals and evaluating responses to care and treatment. This practice is based on specialized knowledge, judgment and nursing skills acquired through educational preparation in nursing and in the biological, physical, social and behavioral sciences and includes but is not limited to:

(1) initiating and maintaining comfort measures;

(2) promoting and supporting optimal human functions and responses;

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

(4) collaborating on the health care regimen;

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

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

(7) providing counseling and health teaching;

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

(9) maintaining accountability for safe and

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effective nursing care;

K. "professional registered nursing" means the practice of the full scope of nursing requiring substantial knowledge of the biological, physical, social and behavioral sciences and of nursing theory and may include [~~expanded~~] advanced practice pursuant to the Nursing Practice Act. This practice includes but is not limited to:

(1) assessing the health status of individuals, families and communities;

(2) establishing a nursing diagnosis;

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

(4) developing a plan of care;

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

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

(7) evaluating responses to interventions;

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

(9) managing and supervising the practice of nursing;

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

(11) conducting nursing research; and

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L. "registered nurse" means a nurse who practices professional registered nursing and whose name and pertinent information are entered in the register of licensed registered nurses maintained by the board."

Section 4. Section 61-3-5 NMSA 1978 (being Laws 1968, Chapter 44, Section 4, as amended) is amended to read:

"61-3-5. LICENSE REQUIRED.--

A. Unless licensed as a registered nurse under the Nursing Practice Act, no person shall:

(1) practice professional nursing;

(2) use the title "registered nurse", "professional nurse", "professional registered nurse" or the abbreviation "R.N." or any other abbreviation thereof or use any other title, abbreviation, letters, figures, signs or devices to indicate or imply that the person is a registered nurse; [~~or~~]

(3) engage in a nursing specialty as defined by the board; or

(4) be prohibited from identifying himself to patients as a registered nurse.

B. Unless licensed as a licensed practical nurse under the Nursing Practice Act, no person shall:

(1) practice licensed practical nursing; or

(2) use the title "licensed practical nurse" or the abbreviation "L.P.N." or any other abbreviation thereof or use any other title, abbreviation, letters, figures, signs or

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devices to indicate or imply that the person is a licensed practical nurse.

C. Unless [~~endorsed~~] licensed as a certified nurse practitioner under the Nursing Practice Act, no person shall:

(1) practice as a certified nurse practitioner; or

(2) use the title "certified nurse practitioner" or the abbreviations "C.N.P." or "N.P." or any other title, abbreviation, letters, figures, signs or devices to indicate or imply that the person is a certified nurse practitioner.

D. Unless [~~endorsed~~] licensed as a certified registered nurse anesthetist under the Nursing Practice Act, no person shall:

(1) practice as a nurse anesthetist; or

(2) use the title "certified registered nurse anesthetist" or the abbreviation "C.R.N.A." or any other title, abbreviation, letters, figures, signs or devices to indicate or imply that the person is a certified registered nurse anesthetist.

E. Unless [~~endorsed~~] licensed as a clinical nurse specialist under the Nursing Practice Act, no person shall:

(1) practice as a clinical nurse specialist; or

(2) use the title "clinical nurse specialist" or the abbreviation "C.N.S." or any other title, abbreviation,

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letters, figures, signs or devices to indicate or imply that the person is a clinical nurse specialist."

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

"61-3-6. ADMINISTRATION OF ANESTHETICS.--It is unlawful for any person, other than a person licensed in New Mexico to practice medicine, osteopathy or dentistry or a currently licensed certified registered nurse anesthetist, to administer anesthetics to any person. Nothing in this section prohibits a person currently licensed [~~in the healing arts from administering local anesthetics or~~] pursuant to the Nursing Practice Act from using hypnosis or from administering local anesthetics or conscious sedation."

Section 6. Section 61-3-8 NMSA 1978 (being Laws 1968, Chapter 44, Section 5, as amended by Laws 1991, Chapter 189, Section 3 and also by Laws 1991, Chapter 190, Section 5) is amended to read:

"61-3-8. BOARD CREATED--MEMBERS--QUALIFICATIONS--TERMS--VACANCIES--REMOVAL.--

A. There is created a seven-member "board of nursing". The board shall consist of four licensed nurses, one preferably a licensed practical nurse, and three members who shall represent the public and shall not have been licensed as registered or licensed practical nurses, nor shall the public members have any significant financial interest, direct or

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indirect, in the profession regulated. Not more than two board members shall be appointed from any one county, and not more than two registered nurse members shall be from any one field of nursing. Members of the board shall be appointed by the governor for staggered terms of four years each. Nurse members shall be appointed from lists submitted to the governor by any generally recognized organization of nurses in this state. Appointments shall be made in such manner that the terms of no more than two board members expire on July 1 of each year. Vacancies shall be filled by appointment by the governor for the unexpired term within sixty days of the vacancy. Board members shall serve until their successors have been appointed and qualified. A person is not eligible for appointment as a public member of the board if the person or the person's spouse:

(1) is licensed by an occupational regulatory agency in the health care field;

(2) is employed by or participates in the management of a business entity or an organization that provides health care services or sells, manufactures or distributes health care supplies or equipment; or

(3) owns, controls or holds directly or indirectly more than ten percent interest in a business entity or an organization that provides health care services or sells, manufactures or distributes health care supplies or equipment.

B. Members of the board shall be citizens of the

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United States and residents of this state. Registered nurse members shall be licensed in this state, shall have had, since graduation, at least five years' experience in nursing, shall be currently engaged in professional nursing and shall have been actively engaged in professional nursing for at least three years immediately preceding appointment or reappointment. The licensed practical nurse member shall be licensed in this state, shall have been graduated from an approved licensed practical nursing education program, shall have been licensed by examination, shall have had at least five years' experience since graduation, shall be currently engaged in licensed practical nursing and shall have been actively engaged in licensed practical nursing for at least three years immediately preceding appointment or reappointment.

C. No board member shall serve more than two full or partial terms, consecutive or otherwise.

D. Any board member failing to attend seventy percent of meeting days annually, either regular or special, shall automatically be removed as a member of the board.

E. The governor may remove any member from the board for neglect of any duty required by law, for incompetency or for unprofessional or dishonorable conduct, in accordance with regulations prescribed by the board.

F. In the event of a vacancy on the board for any reason, the secretary of the board shall immediately notify the

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governor, the board members and any generally recognized nursing organization of the vacancy, the reason for its occurrence and the action taken by the board, so as to expedite the appointment of a new board member."

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

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

A. shall adopt and revise such rules and regulations as may be necessary to enable it to carry into effect the provisions of the Nursing Practice Act and to maintain high standards of practice;

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

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

D. shall grant, deny or withdraw approval from educational programs for failure to meet prescribed standards, provided that a majority of the board concurs in any decision;

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

F. shall conduct hearings upon charges relating to discipline of a licensee or the denial, suspension or revocation of a license in accordance with the procedures of the Uniform Licensing Act;

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G. shall cause the prosecution of all persons, including firms, associations, institutions and corporations, violating the Nursing Practice Act and have the power to incur such expense as is necessary therefor;

H. shall keep a record of all proceedings;

I. shall make an annual report to the governor;

J. shall appoint and employ a qualified registered nurse, who shall not be a member of the board, to serve as executive officer to the board, [~~and~~] who shall define the duties and responsibilities of the executive officer, except that the power to grant, deny or withdraw approval for schools of nursing or to revoke, suspend or withhold any license authorized by the Nursing Practice Act shall not be delegated by the board;

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

L. shall, for the purpose of protecting the health and well-being of the citizens of New Mexico and promoting current nursing knowledge and practice, adopt rules and regulations establishing continuing education requirements as a condition of license renewal and shall study methods of monitoring continuing competence;

M. may appoint advisory committees consisting of at

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least one member who is a board member and at least two members expert in the pertinent field of health care to assist it in the performance of its duties. Committee members may be reimbursed as provided in the Per Diem and Mileage Act;

N. may adopt and revise rules and regulations designed to maintain an inactive status listing for registered nurses and licensed practical nurses;

O. may adopt rules and regulations to regulate the [~~expanded~~] advanced practice of professional registered nursing and [~~advanced~~] expanded practice of licensed practical nursing; [~~and~~]

P. shall [~~endorse the qualifications of~~] license qualified certified nurse practitioners, certified registered nurse anesthetists and clinical nurse specialists; and

Q. shall adopt rules and regulations establishing standards for authorizing prescriptive authority to certified nurse practitioners and clinical nurse specialists."

Section 8. Section 61-3-10.1 NMSA 1978 (being Laws 1993, Chapter 61, Section 2) is amended to read:

"61-3-10.1. HEMODIALYSIS TECHNICIANS--TRAINING PROGRAMS--CERTIFICATION.--

A. As used in this section:

(1) "hemodialysis technician" means a person who is certified by the board to assist with the direct care of a patient undergoing hemodialysis, including performing

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arteriovenous punctures for dialysis access, injecting intradermal lidocaine in preparation for dialysis access, administering heparin bolus and connecting a dialysis access to isotonic saline or heparinized isotonic saline according to standards adopted by the board; and

(2) "training program" means an educational program approved by the board for persons seeking certification as hemodialysis technicians.

B. Unless certified as a hemodialysis technician pursuant to this section, no person shall practice as a hemodialysis technician or use the title "certified hemodialysis technician", "hemodialysis technician" or other title, abbreviation, letters, figures, signs or devices to indicate or imply that the person is a hemodialysis technician.

C. The board shall:

(1) maintain a permanent register of all hemodialysis technicians;

(2) adopt rules and regulations that set reasonable requirements for training programs, including prescribing standards and approving curricula;

(3) provide for periodic evaluation of training programs at least every two years;

(4) grant, deny or withdraw approval from training programs for failure to meet prescribed standards; and

(5) conduct hearings on charges relating to

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discipline of a hemodialysis technician and may deny certification, place a technician on probation or suspend or revoke a certificate in accordance with the Uniform Licensing Act.

D. Every applicant for certification as a hemodialysis technician shall pay the required application fee, submit written evidence of having completed a training program and successfully complete a board-approved examination. The board shall issue a certificate to any person who fulfills the requirements for certification.

E. A certificate shall be renewed [~~biennially~~] every two years by the last day of the hemodialysis technician's birth month upon payment of the required fee, proof of employment as a hemodialysis technician and proof of having met any continuing education requirements adopted by the board.

F. The board shall set the following nonrefundable fees:

(1) for initial certification of a hemodialysis technician by examination, not to exceed sixty dollars ($60.00);

(2) for renewal of certification of a hemodialysis technician, not to exceed sixty dollars ($60.00);

(3) for reactivation of a certificate of a hemodialysis technician after failure to renew a certificate, not to exceed thirty dollars ($30.00);

(4) for initial review and approval of a

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training program, not to exceed one hundred fifty dollars ($150);

(5) for each subsequent review and approval of a training program where the hemodialysis unit has changed the program, not to exceed fifty dollars ($50.00);

(6) for each subsequent review and approval of a training program when a change has been required by a change in board policy, rules or regulations, not to exceed twenty-five dollars ($25.00); and

(7) for periodic evaluation of a training program, not to exceed seventy-five dollars ($75.00)."

Section 9. Section 61-3-10.2 NMSA 1978 (being Laws 1991, Chapter 209, Section 1, as amended) is amended to read:

"61-3-10.2. MEDICATION AIDES.--

A. This section shall permit the operation of a program for certification of medication aides and medication aide training programs in licensed intermediate care facilities for the mentally retarded. The purpose of the program is to effectuate a cost-containment and efficient program for the administration of the medicaid program. It is the intention of the legislature that costs of continuing the program shall be provided through appropriate agreements between the board and licensed intermediate care facilities for the mentally retarded.

B. For the purposes of this section, "medication aide" means a person who, under the supervision of a licensed

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nurse in a licensed intermediate care facility for the mentally retarded, is permitted to administer oral medications according to the standards adopted by the board.

C. Unless certified as a medication aide under the Nursing Practice Act, no person shall:

(1) practice as a medication aide; or

(2) use the titles "certified medication aide" or "medication aide" or any other title, abbreviation, letters, figures, signs or devices to indicate or imply that the person is a certified medication aide.

D. The board shall:

(1) maintain a permanent register of all persons to whom certification to practice as a certified medication aide is provided;

(2) adopt rules and regulations that set reasonable requirements for medication aide educational or training programs and certification that protect the health and well-being of the mentally retarded while facilitating low-cost access to medication services;

(3) adopt rules and regulations governing the supervision of medication aides by licensed nurses, which shall include, but not be limited to, standards for medication aides and performance evaluations of medication aides; and

(4) conduct hearings upon charges relating to discipline of a certified medication aide or the denial,

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suspension or revocation of a medication aide certificate in accordance with the Uniform Licensing Act.

E. Every applicant for certification as a medication aide shall pay the required application fee, submit written evidence of having completed a board-approved program for the certification of medication aides and successfully complete a board-approved examination.

F. The board shall issue a certificate enabling a person to function as a medication aide to any person who fulfills the requirements for medication aides set by law.

G. Every certificate issued by the board to practice as a medication aide shall be renewed [~~biennially~~] every two years by the last day of the medication aide's birth month and upon payment of the required fee. The medication aide seeking renewal shall submit proof of employment as a medication aide and proof of having met any continuing education requirements adopted by the board.

H. Applicants for certification or renewal of certification as certified medication aides shall pay the following fees:

(1) for initial certification by examination or certification after a failure to renew timely an initial certification, the fee shall be set by the board not to exceed thirty dollars ($30.00); and

(2) for renewal of certification, the fee shall

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be set by the board not to exceed thirty dollars ($30.00).

I. The board shall:

(1) prescribe standards and approve curricula for educational or training programs preparing persons as medication aides;

(2) set a reasonable fee for the review and approval of educational or training programs for certification as certified medication aides not to exceed one hundred fifty dollars ($150) for each initial review and approval or fifty dollars ($50.00) for each subsequent review and approval in case of change or modification in a training program, except where the change or modification has been required by a change in board policy or board rules and regulations, in which case the fee for each review and approval shall not exceed twenty-five dollars ($25.00);

(3) provide for periodic evaluation at intervals of no less than two years of educational or training programs preparing persons for certification as certified medication aides, including setting a reasonable fee for each periodic evaluation, which shall not exceed seventy-five dollars ($75.00); and

(4) grant, deny or withdraw approval from medication aide programs for failure to meet prescribed standards; provided that in the event of a denial or withdrawal of approval, none of the fees provided for in this section shall

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be refundable."

Section 10. Section 61-3-10.3 NMSA 1978 (being Laws 1995, Chapter 117, Section 1) is amended to read:

"61-3-10.3. MEDICATION AIDES--TRIAL PROGRAM.--

A. This section permits the operation of a trial program for certification of medication aides and medication aide training programs to serve income-eligible persons participating in the developmentally disabled medicaid waiver program. The purpose of the trial program is to effectuate a cost-containment and efficient program for the administration of the medicaid program. The trial program shall be evaluated by the board and a report of the results submitted to the first session of the [~~forty-third~~] forty-fifth legislature.

B. The developmental disabilities division of the department of health shall, through contract or agreement, provide remuneration to developmental disabilities service providers and to medication aides for services rendered to medicaid waiver program participants. Developmental disabilities service providers shall, through contract or agreement, provide remuneration to the board for administrative and other costs associated with oversight of the medication aide program.

C. For the purposes of this section, "medication aide" means a person who, under the supervision of a licensed nurse, is permitted to administer oral medications to

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participants in the developmentally disabled medicaid waiver program according to standards adopted by the board.

D. Medication aides who serve participants in the developmentally disabled medicaid waiver program shall make application and obtain training and certification as provided in Section 61-3-10.2 NMSA 1978 and shall be subject to all other regulations pertaining to medication aides as determined by the board."

Section 11. Section 61-3-13 NMSA 1978 (being Laws 1968, Chapter 44, Section 10, as amended) is amended to read:

"61-3-13. QUALIFICATIONS FOR LICENSURE AS A REGISTERED NURSE.--Before being considered for licensure as a registered nurse, either by endorsement or examination, under Section 61-3-14 NMSA 1978, an applicant shall furnish evidence satisfactory to the board that the applicant [~~A.~~] has successfully completed [~~at least an approved high school course of study or the equivalent as determined by the regulations of the board; and~~

~~B. has completed a course of study and has graduated from an approved school of nursing~~] an approved program of nursing for licensure as a registered nurse and has graduated or is eligible for graduation."

Section 12. Section 61-3-16 NMSA 1978 (being Laws 1968, Chapter 44, Section 13, as amended) is amended to read:

"61-3-16. FEES FOR LICENSURE AS REGISTERED NURSES.--

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Applicants for licensure as registered nurses shall pay the following fees, which fees shall not be returnable:

A. for licensure without examination, the fee shall be set by the board not to exceed one hundred fifty dollars ($150);

B. for licensure by examination when the examination is the first for the applicant in this state, the fee shall be set by the board not to exceed one hundred fifty dollars ($150);

C. for licensure by examination when the examination is other than the first examination, the fee shall be set by the board not to exceed sixty dollars ($60.00); and

D. for initial [~~endorsement~~] licensure as a certified nurse practitioner, certified registered nurse anesthetist and clinical nurse specialist, the fee shall be set by the board not to exceed fifty dollars ($50.00). This fee shall be in addition to the fee paid for registered nurse licensure."

Section 13. Section 61-3-18 NMSA 1978 (being Laws 1968, Chapter 44, Section 15, as amended) is amended to read:

"61-3-18. QUALIFICATIONS FOR LICENSURE AS A LICENSED PRACTICAL NURSE.--Before being considered for licensure as a licensed practical nurse, either by endorsement or examination, under Section 61-3-19 NMSA 1978, an applicant shall furnish evidence satisfactory to the board that the applicant [~~A.~~] has successfully completed [~~at least an approved high school course~~

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~~of study or the equivalent as determined by reasonable regulations of the board; and~~

~~B. has completed a state-approved course of study for the preparation of licensed practical nurses~~] an approved program of nursing for licensure as a licensed practical nurse and has graduated or is eligible for graduation."

Section 14. Section 61-3-19 NMSA 1978 (being Laws 1968, Chapter 44, Section 16, as amended) is amended to read:

"61-3-19. LICENSURE OF LICENSED PRACTICAL NURSES.--

A. Applicants for licensure by examination shall be required to pass the national licensing examination for licensed practical nurses. The applicant who successfully passes the examination may be issued by the board a license to practice as a licensed practical nurse.

B. The board may issue a license as a licensed practical nurse without an examination to an applicant who has been duly licensed by [~~taking~~] passing the national licensing examination for licensed practical nurses under the laws of another state or by passing a state-board-constructed licensing examination prior to October 1986 if the [~~applicants meet~~] applicant meets the qualifications required of licensed practical nurses in this state.

C. The board may issue a license to practice as a licensed practical nurse to an applicant licensed under the laws of another territory or foreign country if the applicant meets

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the qualifications required of licensed practical nurses in this state, is proficient in English and successfully passes the national licensing examination for licensed practical nurses."

Section 15. Section 61-3-23.2 NMSA 1978 (being Laws 1991, Chapter 190, Section 14, as amended) is amended to read:

"61-3-23.2. CERTIFIED NURSE PRACTITIONER--QUALIFICATIONS--PRACTICE--EXAMINATION.--

A. The board may [~~endorse~~] license for [~~expanded~~] advanced practice as a certified nurse practitioner an applicant who furnishes evidence satisfactory to the board that the applicant:

(1) is a registered nurse;

(2) has successfully completed a [~~post-graduate~~] graduate program for the education and preparation of nurse practitioners; provided that if the applicant is initially licensed by the board or a board in another jurisdiction after January 1, 2001, the program shall be at the master's level or higher;

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

(4) is certified by a national nursing organization.

B. Certified nurse practitioners may:

(1) perform an [~~expanded~~] advanced practice that is beyond the scope of practice of professional registered

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nursing; and

(2) make independent decisions regarding health care needs of the individual, family or community and carry out health regimens, including the prescription and distributing of dangerous drugs, including controlled substances included in Schedules II through V of the Controlled Substances Act.

C. Certified nurse practitioners who have fulfilled requirements for prescriptive authority may prescribe in accordance with rules, regulations, guidelines and formularies for individual certified nurse practitioners promulgated by the board. As used in this subsection, "prescriptive authority" means the ability of the certified nurse practitioner to practice independently, serve as a primary health care provider and as necessary collaborate with licensed medical doctors, osteopathic physicians or podiatrists.

D. Certified nurse practitioners who have fulfilled requirements for [~~prescribing drugs~~] prescriptive authority may distribute to their patients dangerous drugs, including controlled substances included in Schedules II through V of the Controlled Substances Act, that have been prepared, packaged or fabricated by a registered pharmacist or doses of drugs that have been prepackaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act and the New Mexico Drug, Device and Cosmetic Act.

E. Certified nurse practitioners [~~endorsed~~] licensed

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by the board on and after December 2, 1985 shall successfully complete [~~the~~] a national certifying examination and shall maintain national professional certification in their specialty area. Certified nurse practitioners [~~endorsed~~] licensed by [~~the~~] a board prior to December 2, 1985 are not required to sit for a national certification examination or be certified by a national organization."

Section 16. Section 61-3-23.3 NMSA 1978 (being Laws 1991, Chapter 190, Section 15) is amended to read:

"61-3-23.3. CERTIFIED REGISTERED NURSE ANESTHETIST--QUALIFICATIONS--[~~ENDORSEMENT~~] LICENSURE--PRACTICE.--

A. The board may [~~endorse~~] license for [~~expanded~~] advanced practice as a certified registered nurse anesthetist an applicant who furnishes evidence satisfactory to the board that the applicant:

(1) is a registered nurse;

(2) [~~is a graduate of an approved school of nurse anesthesia~~] has successfully completed a nurse anesthesia education program accredited by the American association of nurse anesthetists' council on accreditation, provided that if the applicant is initially licensed by the board or a board in another jurisdiction after January 1, 2001, the program shall be at a master's level or higher; and

(3) is certified by the American association of nurse anesthetists' council on certification.

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B. A certified registered nurse anesthetist may provide pre-operative, intra-operative and post-operative anesthesia care and related services in accordance with the current American association of nurse anesthetists' guidelines for nurse anesthesia practice.

C. Certified registered nurse anesthetists shall function under the direction of and in collaboration with a licensed physician, osteopathic physician, dentist or podiatrist licensed in New Mexico pursuant to Chapter [~~60~~] 61, Article [~~5~~] 5A, 6, 8 or 10 NMSA 1978 in performing the [~~expanding~~] advanced practice of nurse anesthesia care. As used in this subsection, "collaboration" means the process in which a certified registered nurse anesthetist functions jointly with a licensed physician, osteopathic physician, dentist or podiatrist licensed in New Mexico pursuant to Chapter [~~60, Articles 5~~] 61, Article 5A, 6, 8 or 10 NMSA 1978 to deliver health care services within the scope of the certified registered nurse anesthetist's expertise. "Collaboration" includes systematic formal planning and evaluation between the professionals involved in the collaborative practice arrangements."

Section 17. Section 61-3-23.4 NMSA 1978 (being Laws 1991, Chapter 190, Section 16) is amended to read:

"61-3-23.4. CLINICAL NURSE SPECIALIST--QUALIFICATIONS--ENDORSEMENT.--

A. The board may [~~endorse~~] license for [~~expanded~~]

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advanced practice as a clinical nurse specialist an applicant who furnishes evidence satisfactory to the board that the applicant:

[~~A.~~] (1) is a registered nurse;

[~~B.~~] (2) has a master's degree or doctoral degree in a defined clinical nursing specialty; [~~and~~]

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

[~~C.~~] (4) is certified by a national nursing organization.

B. Clinical nurse specialists may:

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

(2) make independent decisions in the area of specialty practice using expert knowledge regarding the health care needs of the individual, family and community, collaborating as necessary with other members of the health care team; and

(3) carry out therapeutic regimens, including the prescription and distribution of dangerous drugs.

C. A clinical nurse specialist who has fulfilled the requirements for prescriptive authority is authorized to prescribe, administer and distribute therapeutic measures, including dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act within

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the scope of specialty practice, including controlled substances pursuant to the Controlled Substances Act that have been prepared, packaged or fabricated by a registered pharmacist or doses of drugs that have been prepackaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act and the New Mexico Drug, Device and Cosmetic Act.

D. Clinical nurse specialists who have fulfilled the requirements for prescriptive authority may prescribe in accordance with rules, regulations, guidelines and formularies for individual clinical nurse specialists promulgated by the board.

E. Clinical nurse specialists licensed by the board shall maintain certification in their specialty area."

Section 18. Section 61-3-24 NMSA 1978 (being Laws 1968, Chapter 44, Section 20, as amended) is amended to read:

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

A. Any person licensed [~~under~~] pursuant to the provisions of the Nursing Practice Act who intends to continue practice shall renew the license [~~biennially~~] every two years by the end of the applicant's [~~birthday~~] birth month except when on active military duty during a military action.

B. At least six weeks before the end of the [~~birthday~~] birth month, the board shall mail to the licensee an application blank, which shall be returned to the board before the end of the [~~birthday~~] birth month, together with proof of

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completion of continuing education requirements as required by the board and the renewal fee set by the board in an amount not to exceed one hundred dollars ($100).

C. Upon receipt of the application and fee, the board shall verify the [~~accuracy of the application~~] licensee's eligibility for continued licensure and issue to the applicant a [~~certificate of~~] renewal license for [~~the biennium~~] two years. Renewal shall render the holder a legal practitioner of nursing for the period stated on the renewal [~~certificate~~] license.

D. Applicants for renewal who have not been actually engaged in nursing for five years or more shall furnish the board evidence of having completed refresher courses of continuing education as required by regulations adopted by the board.

E. Any person who allows his license to lapse by failure to secure renewal as provided in this section shall be reinstated by the board on payment of the fee for the current [~~biennium~~] two years plus a reinstatement fee to be set by the board in an amount that shall not exceed two hundred dollars ($200), provided that all requirements have been met."

Section 19. Section 61-3-29 NMSA 1978 (being Laws 1968, Chapter 44, Section 25, as amended) is amended to read:

"61-3-29. EXCEPTIONS.--The Nursing Practice Act shall not apply to or affect:

A. gratuitous nursing by friends or members of the

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family;

B. nursing assistance in case of emergencies;

C. nursing by students when enrolled in approved schools of nursing or approved courses for the education of professional or practical nurses when such nursing is part of the educational program;

D. nursing in this state by a legally licensed nurse of another state whose employment requires the nurse to [~~accompany~~] transport a citizen of this state or who is a camp nurse who accompanies and [~~care~~] cares for a patient temporarily residing in this state, provided that the [~~temporary residence~~] nurse's practice in this state does not exceed three months and the nurse does not claim to be licensed in this state;

E. nursing in this state by any person who is employed by the United States government or any bureau, division or agency thereof, while in the discharge of his official duties;

F. the practice of midwifery by any person other than a registered nurse who is certified or licensed in this state to practice midwifery;

G. any person working as a home health aide, unless performing acts defined as professional nursing or practical nursing [~~under~~] pursuant to the Nursing Practice Act;

H. any nursing aide or orderly, unless performing acts defined as professional nursing or practical nursing

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[~~under~~] pursuant to the Nursing Practice Act;

I. any registered nurse holding a current license in another jurisdiction who is enrolled in any professional course requiring nursing practice as a part of the educational program;

J. performance by a personal care provider in a noninstitutional setting of bowel and bladder assistance for an individual whom a health care provider certifies is stable, not currently in need of medical care and able to communicate and assess his own needs; or

K. medication aides working in licensed intermediate care facilities for the mentally retarded or serving persons who are participating in the developmentally disabled medicaid waiver program and who have completed a board-approved medication aide training program and who are certified by the board to administer routine oral medications, which may be expanded to include all medications except subcutaneous, intramuscular and intravenous injections, unless the medication aide is performing acts defined as professional or practical nursing under the Nursing Practice Act."

Section 20. Section 61-3-29.1 NMSA 1978 (being Laws 1987, Chapter 285, Section 1, as amended by Laws 1991, Chapter 190, Section 21 and also by Laws 1991, Chapter 253, Section 2) is amended to read:

"61-3-29.1. DIVERSION PROGRAM CREATED--ADVISORY COMMITTEE--RENEWAL FEE--REQUIREMENTS--IMMUNITY FROM CIVIL

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ACTIONS.--

A. The board shall establish a diversion program to rehabilitate nurses whose competencies may be impaired because of the abuse of drugs or alcohol so that nurses can be treated and returned to or continue the practice of nursing in a manner that will benefit the public. The intent of the diversion program is to develop a voluntary alternative to traditional disciplinary actions and an alternative to lengthy and costly investigations and administrative proceedings against such nurses, at the same time providing adequate safeguards for the public.

B. The board shall appoint one or more [~~diversion~~] evaluation [~~advisory~~] committees, hereinafter called [~~the~~] "regional advisory [~~committee~~] committees", each of which shall be composed of [~~at least five~~] members with expertise in chemical dependency; [~~Two members of each advisory committee shall be registered nurses and one member shall be a licensed practical nurse~~] at least one member shall be a registered nurse. No current member of the board shall be appointed to [~~an~~] a regional advisory committee. The executive officer of the board or his designee shall be the liaison between each regional advisory committee and the board.

C. Each regional advisory committee shall function under the direction of the board and in accordance with regulations of the board. The regulations shall include

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directions to [~~an~~] a regional advisory committee to:

(1) establish criteria for [~~admission and~~] continuance in the program;

[~~(2) review sworn complaints filed with the board against a licensed nurse involving drug abuse or alcohol~~;

~~(3) review voluntary requests of each nurse requesting diversion;~~

~~(4)~~] (2) develop a written diversion [~~agreement~~] program contract to be approved by the board [~~which~~] that sets forth the requirements that shall be met by the nurse and the conditions under which the diversion program may be successfully completed or terminated;

[~~(5)~~] (3) recommend to the board in favor of or against each nurse's [~~admission into and release~~] discharge from [~~a~~] the diversion program;

[~~(6) receive and review all reports regarding each nurse's progress in treatment and recovery;~~]

(4) evaluate each nurse's progress in recovery and compliance with his diversion program contract;

[~~(7)~~] (5) report violations to the board;

[~~(8)~~] (6) submit [~~statistical reports~~] an annual report to the board; and

[~~(9)~~] (7) coordinate educational programs and research related to chemically dependent nurses [~~and~~

~~(10) monitor peer-assistant and employee-~~

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[~~bracketed material~~] = delete

~~assistant programs in the state~~].

D. The board may increase the renewal fee for each nurse in the state not to exceed twenty dollars ($20.00) for the purpose of implementing and maintaining the diversion program.

E. Files of nurses in the diversion program shall be maintained in the board office and shall be confidential except for making a report to the board concerning any nurse who is not cooperating and complying with the diversion [~~agreement~~] program contract. However, such files shall be subject to discovery or subpoena. The confidential provisions of this subsection are of no effect if the nurse admitted to the diversion program leaves the state prior to the completion of the program.

F. Any person making a report to the board or to [~~an~~] a regional advisory committee regarding a nurse suspected of practicing nursing while habitually intemperate or addicted to the use of habit-forming drugs or making a report of a nurse's progress or lack of progress in rehabilitation shall be immune from civil action for defamation or other cause of action resulting from such reports, provided such reports are made in good faith and with some reasonable basis in fact.

G. Any person admitted to the diversion program for chemically dependent nurses who fails to comply with the provisions of this section or with the rules and regulations adopted by the board pursuant to this section or with the written diversion [~~agreement~~] program contract or with any

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[~~bracketed material~~] = delete

amendments to the written diversion [~~agreement~~] program contract may be subject to disciplinary action in accordance with Section 61-3-28 NMSA 1978."

Section 21. Section 61-3-31 NMSA 1978 (being Laws 1979, Chapter 379, Section 11, as amended by Laws 1991, Chapter 189, Section 4 and also by Laws 1991, Chapter 190, Section 23) is amended to read:

"61-3-31. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of nursing is terminated on [~~July 1, 1997~~] July 1, 2003 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of Chapter 61, Article 3 NMSA 1978 until [~~July 1, 1998~~] July 1, 2004. Effective [~~July 1, 1998, Article 3~~] July 1, 2004, Chapter 61, Article 3 NMSA 1978 is repealed."

Underscored material = new
[~~bracketed material~~] = delete

State of New Mexico
House of Representatives

FORTY-THIRD LEGISLATURE

FIRST SESSION, 1997

February 27, 1997

Mr. Speaker:

Your BUSINESS AND INDUSTRY COMMITTEE, to whom has been referred

HOUSE BILL 939

has had it under consideration and reports same with recommendation that it DO PASS, and thence referred to the CONSUMER AND PUBLIC AFFAIRS COMMITTEE.

Respectfully submitted,

Fred Luna, Chairman

Underscored material = new
[bracketed material] = delete

.113835.6

Adopted _____ Not Adopted _____

(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Alwin, Lutz, Olguin

Absent: Getty

M:\H0939

Underscored material = new
[bracketed material] = delete

.113835.6

State of New Mexico
House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 6, 1997

Mr. Speaker:

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

HOUSE BILL 939

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

1. On page 1, line 18, strike ", TO CHANGE" and strike line 19 in its entirety and insert "AND TO".

2. On page 25, line 25, strike "and".

3. On page 26, line 4, strike the period and the closing quotation mark and insert in lieu thereof "; and".

4. On page 26, between lines 4 and 5, insert the following:

Underscored material = new
[bracketed material] = delete

"M. "scope of practice" means the parameters within which nurses practice based upon education, experience, licensure, certification and expertise."".

5. On page 26, line 15, remove the brackets and line through the second "or".

6. On page 26, line 17, strike "; or" and insert in lieu thereof a period.

7. On page 26, strike paragraph (4) in its entirety.

8. On page 28, between lines 2 and 3, insert the following new subsection:

"F. No licensed nurse shall be prohibited from identifying himself or his licensure status.".

9. On page 28 through 31, strike Section 6 in its entirety.

10. Renumber succeeding sections accordingly.

11. On page 48, line 14, strike "the" and insert in lieu thereof "a specialized".

12. On page 48, line 15, strike "specialty" and insert in lieu thereof "nursing".

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[bracketed material] = delete

13. On page 48, line 18, after "team" insert "when the health care need is beyond the scope of practice of the clinical nurse specialist".

14. On page 48, line 19, after "regimens" insert "in the area of specialty practice".

15. On page 48, line 22, after "authority" insert "in the area of specialty practice".

16. On page 49, line 8, after "authority" insert "in the area of specialty practice".

17. On page 49, line 9, after "formularies" insert "based on scope of practice and clinical setting".

18. On page 56, strike Section 21 in its entirety.

Respectfully submitted,

Gary King, Chairman

Underscored material = new
[~~bracketed material~~] = delete

Adopted _____ Not Adopted _____

(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 5 For 2 Against

Yes: 5

No: Crook, Johnson

Excused: Rios, Sandel, Vigil

Absent: None

.118160.1

.118087.1

M:\H0939

Underscored material = new
[bracketed material] = delete

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 12, 1997

Mr. President:

Your CORPORATIONS & TRANSPORTATION COMMITTEE, to whom has been referred

HOUSE BILL 939

has had it under consideration and reports same with recommendation that it DO PASS, and thence referred to the PUBLIC AFFAIRS COMMITTEE.

Respectfully submitted,

_____
Roman M. Maes, III, Chairman

Underscored material = new
[bracketed material] = delete

.113835.6

Adopted_____ Not Adopted_____

(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: Fidel, Griego, Robinson

Absent: None

H0939CT1

Underscored material = new
[bracketed material] = delete

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997 HB 939/a

March 16, 1997

Mr. President:

Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

HOUSE BILL 939, as amended

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

1. On page 40, line 9, after the first occurrence of "program" insert "and other department of health adult developmental disabilities programs".

2. On page 40, line 11, after the first occurrence of "program" insert "and other department of health adult developmental disabilities programs".

3. On page 40, line 11, after "the period" strike the remainder of the line, strike lines 12 and 13 in their entirety and insert in lieu thereof:

"The trial program shall become a permanent program upon the

Underscored material = new
[bracketed material] = delete

authorization of the board. The determination shall be made by the board by July 1, 1998.".

4. On page 40, line 18, after "participants" insert "and other department of health adult developmental disabilities program participants".

5. On page 41, line 2, after "program" insert "and other department of health adult developmental disabilities programs".

6. On page 41, line 4, after "program" insert "and other department of health adult developmental disabilities programs".

Respectfully submitted,

_____
Shannon Robinson, Chairman

Adopted_____ Not Adopted_____
(Chief Clerk) (Chief Clerk)

Underscored material = new
[~~bracketed material~~] = delete

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

SPAC/HB 939 Page 67

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Boitano, Garcia, Ingle, Rodarte

Absent: None

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Underscored material = new
[bracketed material] = delete

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FORTY-THIRD LEGISLATURE

FIRST SESSION

March 17, 1997

SENATE FLOOR AMENDMENT number _____ to HOUSE BILL 939, as amended

Amendment sponsored by Senator Timothy Z. Jennings

1. Strike Senate Public Affairs Committee Amendments 1 through 6.

2. On page 40, strike lines 4 through 13 and insert in lieu thereof the following:

""61-3-10.3. MEDICATION AIDES.--

A. This section provides for the operation of a statewide program for certification or medication aides and medication aide training programs to serve persons with developmental disabilities in programs that are funded by the department of health.".

3. On page 40, lines 17 and 18, strike "to medicaid waiver program participants".

Underscored material = new
[bracketed material] = delete

4. On page 41, strike line 1 and on line 2, strike "program" and insert in lieu thereof "persons with developmental disabilities in programs that are funded by the department of health,".

5. On page 41, lines 3 and 4, strike "who serve participants in the developmentally disabled medicaid waiver program".

_____
Timothy Z. Jennings

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

Underscored material = new
[bracketed material] = delete