

AN ACT

RELATING TO NURSING; EXPANDING THE PRACTICE OF CERTIFIED NURSE PRACTITIONERS AND CERTIFIED REGISTERED NURSE ANESTHETISTS; INCREASING CAPS ON THE FEES FOR REVIEW AND APPROVAL OF HEMODIALYSIS TECHNICIAN TRAINING PROGRAMS AND CERTIFIED MEDICATION AIDES PROGRAMS; PROVIDING FOR CRIMINAL BACKGROUND CHECKS; PROVIDING FOR TEMPORARY LICENSING OF NURSES; PROVIDING FOR CONSENT OF DIVERSION PROGRAM PARTICIPANTS FOR USE OF FILE INFORMATION; PROVIDING PENALTIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

Section 1. Section 61-3-2 NMSA 1978 (being Laws 1968, Chapter 44, Section 2, as amended) is amended to read:

"61-3-2. PURPOSE. --The purpose of the Nursing Practice Act is to promote, preserve and protect the public health, safety and welfare by regulating the practice of nursing, schools of nursing, hemodialysis technicians and medication aides in the state."

Section 2. 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;

B. "board" means the board of nursing;

C. "certified nurse practitioner" means a registered nurse who is licensed by the board for 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;

D. "certified registered nurse anesthetist" means a registered nurse who is licensed by the board for 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;

E. "clinical nurse specialist" means a registered nurse who is licensed by the board for 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;

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;

G. "emergency procedures" means airway and vascular access procedures;

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

I. "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;

J. "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;

K. "practice of nursing" means assisting 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 effective nursing care;

L. "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 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;

M. "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; and

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

Section 3. 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. No person shall use the title "nurse" unless the person is licensed or has been licensed in the past as a registered nurse or licensed practical nurse under the

Nursing Practice Act.

B. 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.**

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

D. Unless 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.

E. Unless 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.

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

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

Section 4. Section 61-3-10.1 NMSA 1978 (being Laws 1993, Chapter 61, Section 2, as amended) 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 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 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 every two years by the last day of the hemodialysis technician's certification 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 by rule the following

nonrefundable fees:

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

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

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

(4) initial review and approval of a training program, not to exceed three hundred dollars (\$300);

(5) subsequent review and approval of a training program where the hemodialysis unit has changed the program, not to exceed one hundred dollars (\$100);

(6) 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 fifty dollars (\$50.00); and

(7) periodic evaluation of a training program, not to exceed one hundred fifty dollars (\$150).

G. Each training program shall, through contract or agreement, pay the board for administrative and other costs associated with oversight of the program."

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 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, 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 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 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 three hundred dollars (\$300) for each initial review and approval or one hundred dollars (\$100) for each subsequent

review and approval in case of change or modification in a training program;

(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 one hundred fifty dollars (\$150); 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 be refundable."

Section 6. 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:

A. furnish evidence satisfactory to the board that the applicant has successfully completed an approved program of nursing for licensure as a registered nurse and has graduated or is eligible for graduation; and

B. at the cost to the applicant, provide the board with fingerprints and other information necessary for a

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state and national criminal background check. "

Section 7. 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:

A. furnish evidence satisfactory to the board that the applicant has successfully completed an approved program of nursing for licensure as a licensed practical nurse and has graduated or is eligible for graduation; and

B. at the cost to the applicant, provide the board with fingerprints and other information necessary for a state and national criminal background check. "

Section 8. 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-- ENDORSEMENT. --

A. The board may license for 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 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 advanced practice that is
beyond the scope of practice of professional registered
nursing;

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

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

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.

D. Certified nurse practitioners who have fulfilled requirements for prescriptive authority may distribute to their patients dangerous drugs and 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 licensed by the board on and after December 2, 1985 shall successfully complete a national certifying examination and shall maintain national professional certification in their specialty area. Certified nurse practitioners licensed by 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 9. Section 61-3-23.3 NMSA 1978 (being Laws 1991, Chapter 190, Section 15, as amended) is amended to read:

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

A. The board may license for advanced practice as **HB 337**
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a certified registered nurse anesthetist an applicant who furnishes evidence satisfactory to the board that the applicant:

(1) is a registered nurse;

(2) has successfully completed a nurse anesthesia education program accredited by the council on accreditation of nurse anesthesia education programs; 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 council on certification of nurse anesthetists.

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

C. Certified registered nurse anesthetists shall function in an interdependent role as a member of a health care team in which the medical care of the patient is directed by a licensed physician, osteopathic physician, dentist or podiatrist licensed in New Mexico pursuant to Chapter 61, Article 5A, 6, 8 or 10 NMSA 1978. The certified registered nurse anesthetist shall collaborate with the

licensed physician, osteopathic physician, dentist or podiatrist concerning the anesthesia care of the patient. As used in this subsection, "collaboration" means the process in which each health care provider contributes his respective expertise. Collaboration includes systematic formal planning and evaluation between the health care professionals involved in the collaborative practice arrangement.

D. A certified registered nurse anesthetist who has fulfilled the requirements for prescriptive authority in the area of anesthesia practice is authorized to prescribe and administer therapeutic measures, including dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act within the emergency procedures, perioperative care or perinatal care environments. Dangerous drugs and 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 may be prescribed and administered.

E. A certified registered nurse anesthetist who has fulfilled the requirements for prescriptive authority in the area of anesthesia practice may prescribe in accordance with rules, regulations and guidelines. The board shall

adopt rules concerning a prescriptive authority formulary for certified registered nurse anesthetists that shall be based on the scope of practice of certified registered nurse anesthetists. The board, in collaboration with the New Mexico board of medical examiners, shall develop the formulary. Certified registered nurse anesthetists who prescribe shall do so in accordance with the prescriptive authority formulary.

F. A health care facility may adopt policies relating to the providing of anesthesia care.

G. A certified registered nurse anesthetist licensed by the board shall maintain this certification with the American association of nurse anesthetists' council on certification. "

Section 10. 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 pursuant to the provisions of the Nursing Practice Act who intends to continue practice shall renew the license every two years by the end of the applicant's renewal month except when on active military duty during a military action.

B. At least six weeks before the end of the renewal month, the board shall mail to the licensee an application blank, which shall be returned to the board

before the end of the renewal month, together with proof of 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 licensee's eligibility for continued licensure and issue to the applicant a renewal license for two years. Renewal shall render the holder a legal practitioner of nursing for the period stated on the renewal license.

D. Applicants for renewal who have not been actually engaged in nursing for two 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 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 11. Section 61-3-28 NMSA 1978 (being Laws 1968, Chapter 44, Section 24, as amended) is amended to read:

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

A. In accordance with the procedures contained in the Uniform Licensing Act, the board may deny, revoke or suspend any license held or applied for under the Nursing Practice Act or reprimand or place a licensee on probation upon grounds that the licensee or applicant:

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

(2) is convicted of a felony;

(3) is unfit or incompetent;

(4) is intemperate or is addicted to the use of habit-forming drugs;

(5) is mentally incompetent;

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

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

(8) was licensed to practice nursing in any jurisdiction, territory or possession of the United States or another country and was the subject of disciplinary action as a licensee for acts similar to acts described in this subsection. A certified copy of the record of the

another country taking the disciplinary action is conclusive evidence of the action.

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

C. Any person filing a complaint shall be immune from liability arising out of civil action if the complaint is filed in good faith and without actual malice.

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

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

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

"61-3-29.1. DIVERSION PROGRAM CREATED-- ADVISORY COMMITTEE-- RENEWAL FEE-- REQUIREMENTS-- IMMUNITY FROM CIVIL 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 evaluation committees, hereinafter called "regional advisory committees", each of which shall be composed of members with expertise in chemical dependency. At least one member shall be a registered nurse. No current member of the board shall be appointed to 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 directions to a regional advisory committee to:

(1) establish criteria for continuance in the program;

(2) develop a written diversion program contract to be approved by the board 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;

(3) recommend to the board in favor of or against each nurse's discharge from the diversion program;

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

(5) report violations to the board;

(6) submit an annual report to the board;

and

(7) coordinate educational programs and research related to chemically dependent nurses.

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 when used to make a report to the board concerning a nurse who is not cooperating and complying with the diversion program contract or, with written consent of a nurse, when used for research purposes as long as the nurse is not specifically identified. 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 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 if the 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 program contract or with any amendments to the written diversion program contract may be subject to disciplinary action in accordance with Section 61-3-28 NMSA 1978. "

Section 13. Section 61-3-30 NMSA 1978 (being Laws 1968, Chapter 44, Section 26, as amended) is amended to read:

"61-3-30. VIOLATIONS--PENALTIES.--It is a misdemeanor for a person, firm, association or corporation to:

A. sell, fraudulently obtain or furnish a nursing diploma, license, examination or record or to aid or abet therein;

B. practice professional nursing as defined by the Nursing Practice Act unless exempted or duly licensed to do so under the provisions of that act;

C. practice licensed practical nursing as defined by the Nursing Practice Act unless exempted or duly licensed to do so under the provisions of that act;

D. use in connection with his name a designation tending to imply that such person is a registered nurse or a licensed practical nurse unless duly licensed under the provisions of the Nursing Practice Act;

E. conduct a school of nursing or a course for the education of professional or licensed practical nurses for licensing unless the school or course has been approved by the board;

F. practice nursing after his license has lapsed or been suspended or revoked. Such person shall be considered an illegal practitioner;

G. employ unlicensed persons to practice as registered nurses or as licensed practical nurses;

H. practice or employ a person to practice as a certified registered nurse anesthetist, certified nurse practitioner or clinical nurse specialist unless endorsed as a certified registered nurse anesthetist, certified nurse practitioner or clinical nurse specialist pursuant to the Nursing Practice Act; or

I. otherwise violate a provision of the Nursing Practice Act.

The board shall assist the proper legal authorities in the prosecution of all persons who violate a provision of the Nursing Practice Act. In prosecutions under the Nursing Practice Act, it shall not be necessary to prove a general course of conduct. Proof of a single act, a single holding out or a single attempt constitutes a violation, and, upon conviction, such person shall be sentenced to be imprisoned in the county jail for a definite term not to exceed one year or to the payment of a fine of not more than one thousand dollars (\$1,000) or both."

Section 14. A new section of the Nursing Practice Act is enacted to read:

"TEMPORARY LICENSURE. --An applicant for nurse licensure pursuant to the Nursing Practice Act may be issued a temporary license for a period not to exceed six months or for a period of time necessary for the board to ensure that the applicant has met the licensure requirements set out in that act, whichever is less."

Section 15. REPEAL. --Sections 61-3-15 and 61-3-20 NMSA 1978 (being Laws 1968, Chapter 44, Section 12 and Laws 1968, Chapter 44, Section 17, as amended) are repealed.

