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SENATE BILL 171

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Timothy Z. Jennings

AN ACT

RELATING TO PROFESSIONAL LICENSURE; RENAMING THE NEW MEXICO BOARD OF MEDICAL EXAMINERS; CHANGING MEMBERSHIP; PRESCRIBING POWERS AND DUTIES; CHANGING REQUIREMENTS AND PROCEDURES FOR LICENSURE AS PHYSICIANS; PROVIDING FEES; TRANSFERRING FUNCTIONS, PERSONNEL, APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES OF THE NEW MEXICO BOARD OF MEDICAL EXAMINERS TO THE MEDICAL BOARD; INCREASING CIVIL PENALTIES.

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

Section 1. Section 61-6-1 NMSA 1978 (being Laws 1989, Chapter 269, Section 1) is amended to read:

"61-6-1. SHORT TITLE--PURPOSE. --

A. Chapter 61, Article 6 NMSA 1978 may be cited as the "Medical Practice Act".

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1 B. In the interest of the public health, safety and
2 welfare and to protect the public from the improper,
3 unprofessional, incompetent and unlawful practice of medicine,
4 it is necessary to provide laws and [~~regulations~~] rules
5 controlling the granting and use of the privilege to practice
6 medicine and to establish a medical board [~~of medical~~
7 ~~examiners~~] to implement and enforce [~~those~~] the laws and
8 [~~regulations~~] rules.

9 C. The primary duties and obligations of the
10 medical board [~~of medical examiners~~] are to issue licenses to
11 qualified physicians, [~~to register qualified~~] physician
12 assistants and anesthesiologist assistants, to discipline
13 incompetent or unprofessional physicians, [~~or~~] physician
14 assistants or anesthesiologist assistants and to aid in the
15 rehabilitation of impaired physicians, [~~and~~] physician
16 assistants and anesthesiologist assistants for the purpose of
17 protecting the public."

18 Section 2. Section 61-6-2 NMSA 1978 (being Laws 1923,
19 Chapter 44, Section 1, as amended) is amended to read:

20 "61-6-2. MEDICAL BOARD [~~OF MEDICAL EXAMINERS~~]- -
21 APPOINTMENT- - TERMS- - QUALIFICATIONS. - -

22 A. There is created the "[~~New Mexico~~] medical board
23 [~~of medical examiners~~]", consisting of [~~eight~~] nine members.
24 The board shall be composed of two public members, one
25 physician assistant and six reputable physicians of known

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1 ability who are graduates of medical colleges or schools in
2 good standing [~~as defined in Section 61-6-6 NMSA 1978~~] and who
3 have been licensed physicians in and bona fide residents of New
4 Mexico for a period of five years immediately preceding the
5 date of their appointment. The physician assistant shall have
6 been a licensed physician assistant and a resident of New
7 Mexico for at least five years immediately preceding the date
8 of appointment. Public members of the board shall be residents
9 of New Mexico, shall not have been licensed [~~or have practiced~~
10 ~~as physicians~~] by the board and shall have no significant
11 financial interest, direct or indirect, in the occupation
12 regulated.

13 B. The governor shall appoint the physician members
14 from a list of names submitted to [~~him~~] the governor by the New
15 Mexico medical society or its authorized governing body or
16 council. The list shall contain five names of qualified
17 physicians for each physician member to be appointed.
18 Physician member vacancies shall be filled in the same manner.

19 C. The governor shall appoint the physician
20 assistant member from a list of names submitted to the governor
21 by the New Mexico academy of physician assistants or its
22 authorized governing body or council. The list shall contain
23 five names of qualified physician assistants.

24 [~~C.~~] D. Members shall be appointed to four-year
25 terms, staggered [~~terms beginning on January 1, 1992.~~ Three

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1 ~~physician members and one public member shall be appointed to~~
2 ~~two year terms, and three physician members and one public~~
3 ~~member shall be appointed to four year terms. Thereafter, the~~
4 ~~members shall be appointed to four year terms]~~ so that not more
5 than three terms expire in a year. All board members shall
6 hold office until their successors are appointed and qualified.

7 [D.—Any] E. A board member failing to attend three
8 consecutive meetings, either regular or special, shall
9 automatically be removed as a member of the board unless
10 excused from attendance by the board for good cause shown. "

11 Section 3. Section 61-6-3 NMSA 1978 (being Laws 1989,
12 Chapter 269, Section 3) is amended to read:

13 "61-6-3. MEETINGS OF THE BOARD--QUORUM --

14 A. The board shall hold four regular meetings every
15 fiscal year. [~~Two of those meetings shall be licensing~~
16 ~~meetings.~~]

17 B. During the second quarter of each year, the
18 board shall hold its annual meeting during which it shall elect
19 officers.

20 [~~C. The board shall hold its regular licensing~~
21 ~~meetings during the second and fourth quarters of each fiscal~~
22 ~~year at a time and place determined by a quorum or at a time~~
23 ~~and place determined by the president. The president shall~~
24 ~~provide written notice to all members of the board.~~

25 ~~D.]~~ C. In addition to the regular meetings, the

1 board may hold special meetings at the call of the president
2 after written notice to all members of the board or at the
3 written or electronic request of any two members.

4 ~~[E-]~~ D. A majority of the members of the board
5 shall constitute a quorum and shall be capable of conducting
6 any board business. The vote of a majority of a quorum shall
7 prevail, even though the vote may not represent an actual
8 majority of all the board members. "

9 Section 4. Section 61-6-4 NMSA 1978 (being Laws 1989,
10 Chapter 269, Section 4) is amended to read:

11 "61-6-4. ELECTION--DUTIES OF OFFICERS--REIMBURSEMENT OF
12 BOARD MEMBERS.--

13 A. At its annual meeting, the board shall elect a
14 president, a vice president and a secretary-treasurer.

15 B. The president shall preside over the meetings
16 and affairs of the board.

17 C. The vice president shall perform such duties as
18 may be assigned by the president and shall serve as president
19 due to the absence or incompetence of the president.

20 D. The secretary-treasurer shall:

21 ~~[(1) report to the governor the doings and~~
22 ~~proceedings of the board, together with the amounts of all~~
23 ~~money received and disbursed by the board by December 1 of each~~
24 ~~year;~~

25 ~~(2) with the advice and consent of the board,~~

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1 ~~submit the board budget recommendation to the legislature and~~
2 ~~the department of finance and administration;~~

3 ~~(3) keep a correct and itemized account of all~~
4 ~~money received and disbursed and make a report to the board at~~
5 ~~each meeting;~~

6 ~~(4) issue interim licenses; and]~~

7 (1) review applications for licensure and
8 interview applicants to determine eligibility for licensure;

9 (2) issue temporary licenses pursuant to
10 Section 61-6-14 NMSA 1978;

11 (3) serve on committees related to board
12 activities that require physician participation;

13 (4) serve as a consultant on medical practice
14 issues when a board action is not required; and

15 (5) perform any other functions assigned by
16 the board or by the president [~~between meetings~~].

17 E. The secretary-treasurer may be compensated at
18 the discretion of the board.

19 F. Board members shall receive per diem and mileage
20 as provided in the Per Diem and Mileage Act and shall receive
21 no other compensation, perquisite or allowance, except that the
22 secretary-treasurer may be additionally compensated as provided
23 in Subsection E of this section and board members may be
24 additionally compensated in accordance with Subsection G of
25 this section.

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1 G. Board members or agents performing interviews of
2 applicants [~~as required by Sections 61-6-11 and 61-6-13 NMSA~~
3 ~~1978~~] may be compensated at the board's discretion. "

4 Section 5. Section 61-6-5 NMSA 1978 (being Laws 1973,
5 Chapter 361, Section 2, as amended) is amended to read:

6 "61-6-5. DUTIES AND POWERS. --The board shall:

7 A. enforce and administer the provisions of the
8 Medical Practice Act, the Physician Assistant Act, the
9 Anesthesiologist Assistants Act and the Impaired [~~Physician~~]
10 Health Care Provider Act;

11 B. adopt, publish and file, in accordance with the
12 Uniform Licensing Act and the State Rules Act, all rules [~~and~~
13 ~~regulations~~] for the implementation and enforcement of the
14 provisions of the Medical Practice Act, the Physician Assistant
15 Act, the Anesthesiologist Assistants Act and the Impaired
16 [~~Physician~~] Health Care Provider Act;

17 C. adopt and use a seal;

18 D. administer oaths to all applicants, witnesses
19 and others appearing before the board, as appropriate;

20 E. take testimony on [~~any~~] matters within the
21 board's jurisdiction;

22 F. keep an accurate record of all its meetings,
23 receipts and disbursements;

24 [~~G. keep a record of all examinations held,~~
25 ~~together with the names and addresses of all persons taking the~~

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1 ~~examinations and the examination results, and at the earliest~~
2 ~~date possible give written examination results to each~~
3 ~~applicant examined;~~

4 ~~H. certify as passing each applicant who obtains a~~
5 ~~passing grade indicating successful completion of each subject~~
6 ~~upon which he is examined;~~

7 ~~F.]~~ G. maintain records in which the name, address
8 and license number of all licensees shall be recorded, together
9 with a record of all license renewals, suspensions,
10 revocations, probations, stipulations, censures, reprimands and
11 fines;

12 ~~[J.]~~ H. grant, deny, review, suspend and revoke
13 licenses to practice medicine and censure, reprimand, fine and
14 place on probation and stipulation licensed physicians in
15 accordance with the Uniform Licensing Act for any cause stated
16 in the Medical Practice Act;

17 ~~[K.]~~ I. hire staff and administrators as necessary
18 to carry out the provisions of the Medical Practice Act;

19 ~~[L.]~~ J. have the authority to hire or contract with
20 investigators to investigate possible violations of the Medical
21 Practice Act;

22 ~~[M.]~~ K. have the authority to hire a competent
23 attorney to give advice and counsel in regard to any matter
24 connected with the duties of the board, to represent the board
25 in any legal proceedings and to aid in the enforcement of the

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1 laws in relation to the medical profession and to fix the
2 compensation to be paid to such attorney; provided, however,
3 that such attorney shall be compensated from the funds of the
4 board [~~including those provided for in Section 61-6-28 NMSA~~
5 ~~1978~~];

6 [N.] L. establish continuing medical education
7 requirements for licensed physicians and continuing education
8 requirements for physician assistants; [~~and~~]

9 [O.] M. establish committees as it deems necessary
10 for carrying on its business; and

11 N. hire or contract with a licensed physician to
12 serve as medical director and fulfill specified duties of the
13 secretary-treasurer. "

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

16 "61-6-6. DEFINITIONS. --As used in Chapter 61, Article 6
17 NMSA 1978:

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

21 A. "approved postgraduate training program" means a
22 program approved by the accrediting council on graduate medical
23 education of the American medical association or by the board;

24 B. "board" means the [~~New Mexico~~] medical board [~~of~~
25 ~~medical examiners~~];

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

4 D. "licensee" means a medical doctor, physician
5 assistant or anesthesiologist assistant licensed by the board
6 to practice in New Mexico;

7 [~~D.~~] E. "medical college or school in good
8 standing" means a board-approved medical college or school that
9 has as high a standard as that required by the association of
10 American medical colleges and the council on medical education
11 of the American medical association;

12 [~~E.~~] F. "medical student" means a student enrolled
13 in a board-approved medical college or school in good standing;

14 [~~F.~~] "~~person" means an individual or any legal~~
15 ~~entity of any kind whatever;~~]

16 G. "physician assistant" means [~~a skilled person~~
17 ~~licensed by the board as being qualified by academic and~~
18 ~~practical training to provide patient services under the~~
19 ~~supervision and direction of the licensed physician who is~~
20 ~~responsible for the performance of that assistant] a person who
21 is licensed by the board to practice as a physician assistant
22 and who provides services to patients under the supervision and
23 direction of a licensed physician who is responsible for the
24 performance of the physician assistant;~~

25 H. [~~"postgraduate year one" or]~~ "intern" means a

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1 first-year postgraduate student upon whom a degree of doctor of
2 medicine and surgery or equivalent degree has been conferred by
3 a medical college or school in good standing;

4 I. [~~"postgraduate year two through eight" or~~
5 "resident" means a graduate of a medical college or school in
6 good standing who is in training in a board-approved and
7 accredited residency training program in a hospital or facility
8 affiliated with an approved hospital and who has been appointed
9 to the position of "resident" or [~~"assistant resident"~~
10 "fellow" for the purpose of postgraduate medical training;

11 J. "the practice of medicine" consists of:

12 (1) advertising, holding out to the public or
13 representing in any manner that one is authorized to practice
14 medicine in this state;

15 (2) offering or undertaking to administer,
16 dispense or prescribe [~~any~~] a drug or medicine for the use of
17 [~~any other~~] another person, except as authorized pursuant to a
18 professional or occupational licensing statute set forth in
19 Chapter 61 NMSA 1978;

20 (3) offering or undertaking to give or
21 administer, dispense or prescribe [~~any~~] a drug or medicine for
22 the use of [~~any other~~] another person, except as directed by a
23 licensed physician;

24 (4) offering or undertaking to perform [~~any~~]
25 an operation or procedure upon [~~any~~] a person;

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1 (5) offering or undertaking to diagnose,
2 correct or treat in any manner or by any means, methods,
3 devices or instrumentalities any disease, illness, pain, wound,
4 fracture, infirmity, deformity, defect or abnormal physical or
5 mental condition of ~~[any]~~ a person;

6 (6) offering medical peer review, utilization
7 review or diagnostic service of any kind that directly
8 influences patient care, except as authorized pursuant to a
9 professional or occupational licensing statute set forth in
10 Chapter 61 NMSA 1978; or

11 (7) acting as the representative or agent of
12 ~~[any]~~ a person in doing any of the things listed in ~~[Paragraphs~~
13 ~~(1) through (6) of]~~ this subsection;

14 K. "the practice of medicine across state lines"
15 means:

16 (1) the rendering of a written or otherwise
17 documented medical opinion concerning diagnosis or treatment of
18 a patient within this state by a physician located outside this
19 state as a result of transmission of individual patient data by
20 electronic, telephonic or other means from within this state to
21 the physician or the physician's agent; or

22 (2) the rendering of treatment to a patient
23 within this state by a physician located outside this state as
24 a result of transmission of individual patient data by
25 electronic, telephonic or other means from within this state to

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1 the physician or the physician's agent;

2 L. "sexual contact" means touching the primary
3 genital area, groin, anus, buttocks or breast of a patient or
4 allowing a patient to touch another's primary genital area,
5 groin, anus, buttocks or breast in a manner that is commonly
6 recognized as outside the scope of acceptable medical practice;

7 M. "sexual penetration" means sexual intercourse,
8 cunnilingus, fellatio or anal intercourse, whether or not there
9 is any emission, or introducing any object into the genital or
10 anal openings of another in a manner that is commonly
11 recognized as outside the scope of acceptable medical practice;
12 and

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

15 Section 7. Section 61-6-7 NMSA 1978 (being Laws 1973,
16 Chapter 361, Section 3, as amended) is amended to read:

17 "61-6-7. SHORT TITLE-- LICENSURE AS A PHYSICIAN
18 ASSISTANT-- SCOPE OF PRACTICE-- BIENNIAL REGISTRATION OF
19 SUPERVISION-- [CHANGE] LICENSE RENEWAL-- FEES. --

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

22 B. The board may license [~~qualified persons~~] as a
23 physician [~~assistants. No~~] assistant a qualified person who
24 has graduated from a physician assistant or surgeon assistant
25 program accredited by the national accrediting body as

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1 established by rule and has passed a physician assistant
2 national certifying exam as established by rule.

3 C. A person shall not perform, attempt to perform
4 or hold himself out as a physician assistant without first
5 applying for and obtaining a license from the board and without
6 biennially registering his supervising licensed physician in
7 accordance with board [~~regulations.~~ ~~Physician assistants who~~
8 ~~are registered under the Physician Assistant Act as of June 31,~~
9 ~~1997 shall be considered to be licensed until the expiration of~~
10 ~~that registration] rules.~~

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

25 [~~D.-]~~ E. A physician assistant shall perform only

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1 ~~[those]~~ the acts and duties assigned ~~[him]~~ to the physician
2 assistant by a supervising licensed physician that are within
3 the scope of practice of the supervising licensed physician.

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

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

1 ~~supervision shall automatically become void or inactive.]~~

2 H. Before starting work, a physician assistant
3 shall ensure that the supervising licensed physician of the
4 physician assistant is registered by the board. The license of
5 a physician assistant shall be valid when the physician
6 assistant works under the supervision of a board-registered
7 licensed physician.

8 ~~[G.]~~ I. Each biennial renewal of ~~[registration of~~
9 ~~supervision]~~ licensure shall be accompanied by a fee as
10 provided in Section 61-6-19 NMSA 1978. "

11 Section 8. Section 61-6-7.2 NMSA 1978 (being Laws 1997,
12 Chapter 187, Section 3) is amended to read:

13 "61-6-7.2. INACTIVE LICENSE. --

14 A. A physician assistant license shall expire every
15 two years on a date established by the board.

16 ~~[A.]~~ B. A physician assistant who notifies the
17 board in writing on forms prescribed by the board may elect to
18 place his license on an inactive status. A physician assistant
19 with an inactive license shall be excused from payment of
20 renewal fees and shall not practice as a physician assistant.

21 ~~[B.]~~ C. A physician assistant who engages in
22 practice while his license is lapsed or on inactive status is
23 practicing without a license, and this is grounds for
24 discipline pursuant to the Physician Assistant Act.

25 ~~[C.]~~ D. A physician assistant requesting

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1 restoration from inactive status shall pay the current renewal
2 fee and fulfill the requirement for renewal pursuant to the
3 Physician Assistant Act.

4 E. The board may, in its discretion, summarily
5 suspend for nonpayment of fees the license of a physician
6 assistant who has not renewed his license within ninety days of
7 expiration.

8 F. A physician assistant who has not submitted an
9 application for renewal on or before the license expiration
10 date, but who has submitted an application for renewal within
11 forty-five days after the license expiration date, shall be
12 assessed a late fee.

13 G. A physician assistant who has not submitted an
14 application for renewal between forty-six and ninety days after
15 the expiration date shall be assessed a late fee."

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

18 "61-6-9. PHYSICIAN ASSISTANTS--RULES [~~AND REGULATIONS~~]. --
19 [~~A.~~] The board may adopt and enforce reasonable rules [~~and~~
20 ~~regulations~~] for:

21 [~~(1) for setting qualifications of~~]

22 A. education, skill and experience for licensure of
23 a person as a physician assistant and providing forms and
24 procedures for biennial licensure and registration of
25 supervision by a licensed physician;

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1 ~~[(2) for]~~ B. examining and evaluating ~~[applicants]~~
2 an applicant for licensure as a physician assistant as to
3 ~~[their]~~ skill, knowledge and experience of the applicant in the
4 field of medical care;

5 ~~[(3) for]~~ C. establishing when and for how long
6 physician assistants are permitted to prescribe, administer and
7 distribute dangerous drugs other than controlled substances in
8 Schedule I of the Controlled Substances Act pursuant to
9 ~~[regulations]~~ rules adopted by the board after consultation
10 with the board of pharmacy;

11 ~~[(4) for]~~ D. allowing a supervising licensed
12 physician to temporarily delegate ~~[his]~~ supervisory
13 responsibilities for a physician assistant to another licensed
14 physician;

15 ~~[(5) for]~~ E. allowing a physician assistant to
16 temporarily serve under the supervision of a licensed physician
17 other than the supervising licensed physician of record; and

18 ~~[(6) for the purpose of]~~

19 F. carrying out all other provisions of the
20 Physician Assistant Act.

21 ~~[B. The board shall not adopt any rule or~~
22 ~~regulation allowing a physician assistant to measure the~~
23 ~~powers, range or accommodative status of human vision; diagnose~~
24 ~~vision problems; prescribe lenses, prisms, vision training or~~
25 ~~contact lenses; or fit contact lenses. This restriction does~~

1 ~~not preclude vision screening. The board shall not adopt any~~
2 ~~rule or regulation allowing a physician assistant to perform~~
3 ~~treatment of the human foot outside the physician assistant's~~
4 ~~scope of practice.]"~~

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

7 "61-6-10. SUPERVISING LICENSED PHYSICIAN--
8 RESPONSIBILITY. --

9 A. As a condition of [~~biennial~~] licensure [~~and~~
10 ~~renewal of registration of supervision~~], all physician
11 assistants practicing in New Mexico shall inform the board of
12 the name of the licensed physician under whose supervision they
13 will practice. All supervising licensed physicians shall be
14 licensed under the Medical Practice Act and shall be approved
15 by the board.

16 B. Every licensed physician supervising a licensed
17 physician assistant shall be individually responsible and
18 liable for the performance of the acts and omissions delegated
19 to the physician assistant. Nothing in this section shall be
20 construed to relieve the physician assistant of [~~any~~]
21 responsibility and liability for [~~any of his own~~] the acts and
22 omissions of the physician assistant.

23 C. [~~No~~] A licensed physician [~~may have under his~~
24 ~~supervision~~] shall not supervise more than two physician
25 assistants; except, where a physician is working in a health

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1 facility providing health service to the public primarily on a
2 free or reduced fee basis, that is funded in whole or in part
3 out of public funds or the funds of private charitable
4 institutions or for good cause shown, the board may authorize a
5 greater number upon a finding that the program provides
6 adequate supervision of the physician assistants. "

7 Section 11. Section 61-6-10.2 NMSA 1978 (being Laws 2001,
8 Chapter 311, Section 2) is amended to read:

9 "61-6-10.2. DEFINITIONS. --As used in the Anesthesiologist
10 Assistants Act:

11 A. "anesthesiologist" means a physician licensed to
12 practice medicine in New Mexico who has successfully completed
13 an accredited anesthesiology graduate medical education
14 program, who is board certified by the American board of
15 anesthesiology or board eligible, who has completed a residency
16 in anesthesiology within the last three years and who is an
17 employee of the department of anesthesiology of a medical
18 school in New Mexico;

19 B. "anesthesiologist assistant" means a skilled
20 person employed or to be employed by a university in New Mexico
21 with a medical school certified by the board as being qualified
22 by academic and practical training to assist an
23 anesthesiologist in developing and implementing anesthesia care
24 plans for patients under the supervision and direction of the
25 anesthesiologist who is responsible for the performance of

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1 ~~[that]~~ the anesthesiologist assistant;

2 C. "applicant" means a person who is applying to
3 the board for a license as an anesthesiologist assistant;

4 D. "board" means the ~~[New Mexico]~~ medical board ~~[of~~
5 ~~medical examiners]~~; and

6 E. "license" means an authorization to practice as
7 an anesthesiologist assistant. "

8 Section 12. Section 61-6-11 NMSA 1978 (being Laws 1923,
9 Chapter 44, Section 3, as amended) is amended to read:

10 "61-6-11. LICENSURE. --

11 A. The board may ~~[admit to examination]~~ consider
12 for ~~[license any]~~ licensure a person who is of good moral
13 character, ~~[and]~~ is a graduate of a medical college or school
14 in good standing, ~~[as defined in Subsection D of Section 61-6-6~~
15 ~~NMSA 1978]~~ has passed an examination approved by the board and
16 ~~[who]~~ has completed two years of an approved postgraduate
17 training program.

18 ~~[B. One year of postgraduate medical training may~~
19 ~~be accepted by the board if the applicant was an intern in a~~
20 ~~board approved program from July 1, 1993 through June 30, 1994~~
21 ~~and if the applicant applies to the board for licensure before~~
22 ~~July 1, 1995. All postgraduate training shall be approved by~~
23 ~~the board.~~

24 ~~C.]~~ B. An applicant who has not completed two years
25 of an approved postgraduate ~~[medical]~~ training program, but who

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1 otherwise meets all other licensing requirements, may present
2 evidence to the board of the applicant's other professional
3 experience for consideration by the board in lieu of the
4 approved postgraduate [~~medical~~] training program. The board
5 shall, in its sole discretion, determine if the professional
6 experience is substantially equivalent to the required approved
7 postgraduate [~~medical~~] training program.

8 ~~[D.—The board may administer a board-approved~~
9 ~~licensing examination.—The board shall determine a grade~~
10 ~~constituting successful completion of the exam—~~

11 ~~E.—Alternatively, the board may issue a license to~~
12 ~~any applicant of good moral character and after successfully~~
13 ~~completing an examination accepted by the board as administered~~
14 ~~in this or another state.—~~

15 ~~F.]~~ C. A graduate of a board-approved medical
16 college located outside the United States may be granted a
17 license to practice medicine in New Mexico, provided the
18 applicant presents evidence to the board that the applicant is
19 a person of good moral character and is in compliance with the
20 United States immigration laws and provided that the applicant
21 presents satisfactory evidence to the board that the applicant
22 has successfully passed an examination as required by the board
23 and has successfully completed two years of postgraduate
24 medical training in [~~a board-approved~~] an approved postgraduate
25 training program.

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1 ~~[G.]~~ D. All applicants for licensure ~~[by~~
2 ~~examination shall]~~ may be required to appear personally
3 ~~[appear]~~ before the board or a designated ~~[member of the board]~~
4 agent for an interview.

5 ~~[H.—No]~~ E. An applicant for licensure by
6 examination shall not be granted a license if the applicant has
7 taken the examination in two or more steps and has failed to
8 successfully pass the final step within seven years of the date
9 that the first step was passed. A candidate for both a medical
10 doctor degree and a doctorate degree must successfully complete
11 the entire examination series within ten years from the date
12 the first step of the examination is passed.

13 ~~[I.]~~ F. Every applicant for licensure under this
14 section shall pay the fees required by Section 61-6-19 NMSA
15 1978.

16 G. The board may require a criminal background
17 check on an applicant for licensure."

18 Section 13. Section 61-6-13 NMSA 1978 (being Laws 1989,
19 Chapter 269, Section 9, as amended) is amended to read:

20 "61-6-13. LICENSURE BY ENDORSEMENT. --

21 A. The board may grant a license without
22 examination and by endorsement to an applicant who is properly
23 endorsed by the officers of the examining board with
24 jurisdiction or by the Canadian medical council and:

25 (1) has graduated from a medical college or

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1 school in good standing;

2 (2) is board-certified in a specialty
3 recognized by the American board of medical specialties;

4 (3) has been a licensed physician outside of
5 New Mexico, but in the United States [~~and who otherwise meets~~
6 the requirements set forth in the Medical Practice Act,
7 provided that the applicant is properly endorsed by the
8 officers of the examining board with jurisdiction.

9 ~~B. The board may grant a license without~~
10 ~~examination and by endorsement to any applicant who has been a~~
11 ~~licensed physician in Canada and who otherwise meets the~~
12 ~~requirements set forth in the Medical Practice Act, provided~~
13 ~~that the applicant is properly endorsed by the officers of~~
14 ~~either the Canadian medical council or an examining board with~~
15 ~~jurisdiction within the United States] or Canada for at least~~
16 three years;

17 (4) holds an unrestricted license in another
18 state or Canada; and

19 (5) was not the subject of a disciplinary
20 action in a state or province.

21 ~~[C.] B. The board may grant a license [~~without~~~~
22 ~~examination and] by endorsement to [any] an applicant who is~~
23 ~~properly endorsed by the officers of the examining board with~~
24 jurisdiction or by the Canadian medical council and:

25 (1) has graduated from a medical college

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1 located outside the United States or Canada [~~and who~~];

2 (2) is of good moral character [~~who~~];

3 (3) is in compliance with the United States
4 immigration laws [~~and who~~];

5 (4) is board-certified in a specialty
6 recognized by the American board of specialties;

7 (5) has been a licensed physician in the
8 United States or Canada and has practiced medicine in the
9 United States or Canada immediately preceding the application
10 [~~and who otherwise meets the requirements set forth in the~~
11 ~~Medical Practice Act, provided that the applicant is properly~~
12 ~~endorsed by the officers of the examining board within the~~
13 ~~United States or Canada that has jurisdiction] for at least
14 three years;~~

15 (6) holds an unrestricted license; and

16 (7) was not the subject of disciplinary action
17 in a state or province.

18 [~~D.~~] C. An endorsement provided pursuant to this
19 section shall certify that the applicant has passed an
20 examination that meets with board approval and that the
21 applicant is in good standing in that jurisdiction. In cases
22 when the applicant is board-certified, has not been the subject
23 of disciplinary action that would be reportable to the national
24 practitioner data bank or the healthcare integrity and
25 protection data bank and has unusual skills and experience not

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1 generally available in this state, and patients residing in
2 this state have a significant need for such skills and
3 experience, the board may waive ~~[any]~~ a requirement imposing
4 time limits for examination completion that are different from
5 ~~[those]~~ requirements of the state where the applicant is
6 licensed.

7 ~~[E.—All applicants]~~ D. An applicant for licensure
8 under this section ~~[shall]~~ may be required to personally appear
9 before the board or a designated ~~[board member]~~ agent for an
10 interview.

11 ~~[F.—All applicants]~~ E. An applicant for licensure
12 under this section shall pay an application fee as provided in
13 Section 61-6-19 NMSA 1978.

14 F. The board may require a criminal background
15 check on an applicant for licensure."

16 Section 14. Section 61-6-14 NMSA 1978 (being Laws 1953,
17 Chapter 48, Section 2, as amended) is amended to read:

18 "61-6-14. ORGANIZED YOUTH CAMP OR SCHOOL TEMPORARY
19 LICENSES AND TEMPORARY LICENSES FOR OUT-OF-STATE PHYSICIANS. --

20 A. The secretary-treasurer of the board may issue
21 to ~~[any]~~ an applicant qualified to practice medicine and
22 surgery in this state, either by examination or by endorsement,
23 who will be temporarily in attendance at ~~[any]~~ an organized
24 youth camp or school, a temporary license to practice medicine
25 and surgery, the practice to be confined to enrollees, leaders

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1 and employees of the camp or school and the following
2 provisions shall apply:

3 (1) the temporary license shall be issued for
4 a period not to exceed three months from date of issuance; and

5 (2) the temporary license may be issued upon
6 written application of the applicant, accompanied by such proof
7 of ~~[his]~~ the qualifications of the applicant as ~~[the secretary-~~
8 ~~treasurer of the board, in his discretion, may require]~~
9 specified by board rule.

10 B. The secretary-treasurer of the board may issue
11 to ~~[any]~~ an applicant who is licensed to practice medicine in
12 another state, territory of the United States or another
13 country and who is qualified to practice medicine and surgery
14 in this state a temporary license to practice medicine under
15 the ~~[sponsorship]~~ supervision of ~~[and in association with]~~ a
16 licensed ~~[New Mexico]~~ physician. The following provisions
17 shall apply:

18 (1) the temporary license may be issued upon
19 written application of the applicant, accompanied by ~~[such]~~
20 proof of ~~[his]~~ qualifications as ~~[the secretary-treasurer of~~
21 ~~the board, in his discretion, may require]~~ specified by rule of
22 the board. A temporary ~~[licenses]~~ license may be granted to
23 allow the applicant to assist in teaching, conducting research,
24 performing specialized diagnostic and treatment procedures,
25 ~~[and]~~ implementing new technology and for physician educational

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1 purposes. [~~Licensees~~] A licensee may engage in only [~~those~~]
2 the activities specified on the temporary license, and the
3 temporary license shall identify the licensed [~~New Mexico~~]
4 physician who will [~~sponsor and associate with~~] supervise the
5 applicant during the time the applicant practices medicine in
6 New Mexico. The [~~sponsoring or associating~~] supervising
7 licensed physician shall submit an affidavit attesting to the
8 qualifications of the applicant and activities the applicant
9 will perform; and

10 (2) the temporary license shall be issued for
11 a period not to exceed three months from date of issuance and
12 may be renewed upon application and payment of fees as provided
13 in Section 61-6-19 NMSA 1978.

14 [~~C. Whenever an eligible applicant has filed his~~
15 ~~application and complied with all other requirements of the~~
16 ~~Medical Practice Act in the interim between regular board~~
17 ~~meetings, the secretary-treasurer may issue an interim license~~
18 ~~to hold good until the next regular licensing meeting of the~~
19 ~~board.~~

20 ~~D.] C.~~ The application for a temporary license
21 under this section shall be accompanied by a license fee as
22 provided in Section 61-6-19 NMSA 1978. "

23 Section 15. Section 61-6-15 NMSA 1978 (being Laws 1969,
24 Chapter 46, Section 6, as amended) is amended to read:

25 "61-6-15. LICENSE MAY BE REFUSED, REVOKED OR

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1 SUSPENDED-- LICENSEE MAY BE FINED, CENSURED OR REPRIMANDED--
2 PROCEDURE-- PRACTICE AFTER SUSPENSION OR REVOCATION-- PENALTY--
3 UNPROFESSIONAL AND DISHONORABLE CONDUCT DEFINED-- FEES AND
4 EXPENSES-- NOTICE OF CLAIM --

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

16 B. The board may, in its discretion and for good
17 cause shown, place the licensee on probation on [~~such~~] the
18 terms and conditions [~~as~~] it deems proper for protection of the
19 public, [~~or~~] for the purpose of [~~the~~] rehabilitation of the
20 probationer or both. Upon expiration of the term of probation,
21 if a term is set, further proceedings may be abated by the
22 board if the holder of the license furnishes the board with
23 evidence that the [~~physician~~] licensee is competent to practice
24 [~~medicine~~], is of good moral character and has complied with
25 the terms of probation.

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1 C. If evidence fails to establish to the
2 satisfaction of the board that the licensee is competent and is
3 of good moral character or if evidence shows that ~~[he]~~ the
4 licensee has not complied with the terms of probation, the
5 board may revoke or suspend the license ~~[forthwith]~~. If a
6 license to practice ~~[medicine]~~ in this state is suspended, the
7 holder of the license may not practice during the term of
8 suspension. ~~[Any]~~ A person whose license has been revoked or
9 suspended by the board and who thereafter practices or attempts
10 or offers to practice ~~[medicine]~~ in New Mexico, unless the
11 period of suspension has expired or been modified by the board
12 or the ~~[physician's]~~ license reinstated, is guilty of a felony
13 and shall be punished as provided in Section 61-6-20 NMSA 1978.

14 D. "Unprofessional or dishonorable conduct", as
15 used in this section, means ~~[among other things, but not~~
16 ~~limited to because of enumeration]~~ conduct of a licensee that
17 includes the following:

18 (1) procuring, aiding or abetting a criminal
19 abortion;

20 (2) employing ~~[any]~~ a person to solicit
21 patients for the ~~[physician]~~ licensee;

22 (3) representing to a patient that a
23 manifestly incurable condition of sickness, disease or injury
24 can be cured;

25 (4) obtaining ~~[any]~~ a fee by fraud or

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1 misrepresentation;

2 (5) willfully or negligently divulging a
3 professional confidence;

4 (6) conviction of [~~any~~] an offense punishable
5 by incarceration in a state penitentiary or federal prison or
6 conviction of a misdemeanor associated with the practice of
7 [~~medicine~~] the licensee. A copy of the record of conviction,
8 certified by the clerk of the court entering the conviction, is
9 conclusive evidence;

10 (7) habitual or excessive use of intoxicants
11 or drugs;

12 (8) fraud or misrepresentation in applying for
13 or procuring a license to practice in this state or in
14 connection with applying for or procuring renewal, including
15 cheating on or attempting to subvert the licensing
16 examinations;

17 (9) making false or misleading statements
18 regarding the [~~physician's~~] skill of the licensee or the
19 efficacy or value of the ~~medicine~~, treatment or remedy
20 prescribed or administered by the [~~physician~~] licensee or at
21 the [~~physician's~~] direction of the licensee in the treatment of
22 [~~any~~] a disease or other condition of the human body or mind;

23 (10) impersonating another [~~person licensed to~~
24 ~~practice medicine~~] licensee, permitting or allowing [~~any~~] a
25 person to use the [~~physician's~~] license [~~or certificate of~~

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1 ~~registration~~ of the licensee or practicing ~~[medicine]~~ as a
2 licensee under a false or assumed name;

3 (11) aiding or abetting the practice of
4 ~~[medicine by]~~ a person not licensed by the board;

5 (12) gross negligence in the practice of
6 ~~[medicine]~~ a licensee;

7 (13) manifest incapacity or incompetence to
8 practice ~~[medicine]~~ as a licensee;

9 (14) discipline imposed on a licensee [~~to~~
10 ~~practice medicine]~~ by another state, including probation,
11 suspension or revocation, based upon acts by the licensee
12 similar to acts described in this section. A certified copy of
13 the record of suspension or revocation of the state making the
14 suspension or revocation is conclusive evidence;

15 (15) the use of [~~any~~] a false, fraudulent or
16 deceptive statement in [~~any~~] a document connected with the
17 practice of ~~[medicine]~~ a licensee;

18 (16) fee splitting;

19 (17) the prescribing, administering or
20 dispensing of narcotic, stimulant or hypnotic drugs for other
21 than accepted therapeutic purposes;

22 (18) conduct likely to deceive, defraud or
23 harm the public;

24 (19) repeated similar negligent acts;

25 (20) employing abusive billing practices;

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1 (21) failure to report to the board any
2 adverse action taken against the [~~physician~~] licensee by:

- 3 (a) another licensing jurisdiction;
4 (b) [~~any~~] a peer review body;
5 (c) [~~any~~] a health care entity;
6 (d) [~~any~~] a professional or medical
7 society or association;
8 (e) [~~any~~] a governmental agency;
9 (f) [~~any~~] a law enforcement agency; or
10 (g) [~~any~~] a court for acts or conduct
11 similar to acts or conduct that would constitute grounds for
12 action as defined in this section;

13 (22) failure to report to the board surrender
14 of a license or other authorization to practice [~~medicine~~] in
15 another state or jurisdiction or surrender of membership on any
16 medical staff or in any medical or professional association or
17 society following, in lieu of and while under disciplinary
18 investigation by any of those authorities or bodies for acts or
19 conduct similar to acts or conduct that would constitute
20 grounds for action as defined in this section;

21 (23) failure to furnish the board, its
22 investigators or representatives with information requested by
23 the board;

24 (24) abandonment of patients;

25 (25) being found mentally incompetent or

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1 insane by a court of competent jurisdiction;

2 (26) injudicious prescribing, administering or
3 dispensing of ~~[any]~~ a drug or medicine;

4 (27) failure to adequately supervise, as
5 provided by board ~~[regulation]~~ rule, a medical or surgical
6 assistant or technician or professional licensee who renders
7 health care;

8 (28) ~~[intentionally engaging in sexual contact~~
9 ~~or sexual penetration with a patient]~~ sexual contact with a
10 patient or person who has authority to make medical decisions
11 for a patient, other than ~~[one's]~~ the spouse of the licensee,
12 after representing or inferring that ~~[such]~~ the activity is a
13 legitimate part of the patient's treatment;

14 (29) conduct unbecoming in a person licensed
15 to practice ~~[medicine]~~ or detrimental to the best interests of
16 the public; ~~[and]~~

17 (30) the surrender of a license ~~[to practice~~
18 ~~medicine]~~ or withdrawal of an application for a license ~~[to~~
19 ~~practice medicine]~~ before another state licensing board while
20 an investigation or disciplinary action is pending before that
21 board for acts or conduct similar to acts or conduct that would
22 constitute grounds for action ~~[as provided for in]~~ pursuant to
23 this section;

24 (31) sexual contact with a former mental
25 health patient of the licensee, other than the spouse of the

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1 licensee, within one year from the end of treatment;

2 (32) sexual contact with a former non-mental
3 health patient, other than the spouse of the licensee, when the
4 licensee uses or exploits treatment, knowledge, emotions or
5 influence derived from the previous professional relationship;

6 (33) improper management of medical records,
7 including failure to maintain timely, accurate and complete
8 medical records;

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

14 (35) undertreatment of pain as provided by
15 board rule;

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

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

24 (38) willfully or negligently divulging
25 privileged information or a professional secret.

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1 E. As used in this section, "fee splitting"
2 includes offering, delivering, receiving or accepting any
3 unearned rebate, refunds, ~~commission~~ preference, patronage
4 dividend, discount or other unearned consideration, whether in
5 the form of money or otherwise, as compensation or inducement
6 for referring patients, clients or customers to ~~[any]~~ a person,
7 irrespective of any membership, proprietary interest or co-
8 ownership in or with ~~[any]~~ a person to whom the patients,
9 clients or customers are referred.

10 ~~[F. Licensees shall bear all costs of disciplinary~~
11 ~~proceedings unless exonerated.]~~

12 ~~G.]~~ F. Licensees whose licenses are in a
13 probationary status shall pay reasonable expenses for
14 maintaining probationary status, including laboratory costs
15 when laboratory testing of biological fluids are included as a
16 condition of probation.

17 ~~[H. For the purpose of investigating the competence~~
18 ~~of medical practitioners covered by the Medical Practice Act~~
19 ~~who practice medicine in the state of New Mexico, any entity~~
20 ~~issuing professional liability insurance to physicians or~~
21 ~~indemnifying physicians for professional liability in New~~
22 ~~Mexico shall report to the board all settlements or judgments~~
23 ~~against licensed physicians, whether they are tried in court or~~
24 ~~settled out of court.]"~~

25 Section 16. Section 61-6-16 NMSA 1978 (being Laws 1989,

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1 Chapter 269, Section 12) is amended to read:

2 "61-6-16. REPORTING OF SETTLEMENTS AND JUDGMENTS,
3 PROFESSIONAL REVIEW ACTIONS AND ACCEPTANCE OF SURRENDERED
4 LICENSE--IMMUNITY FROM CIVIL DAMAGES--PENALTY. --

5 A. All entities [~~which~~] that make payments under a
6 policy of insurance, self-insurance or otherwise in settlement
7 or satisfaction of a judgment in a medical malpractice action
8 or claim, [~~all~~] hospitals, [~~all~~] health care entities and [~~all~~]
9 professional review bodies shall report to the board all
10 payments relating to malpractice actions or claims arising in
11 New Mexico, all appropriate professional review actions of
12 [~~physicians~~] licensees and the acceptance or surrender of
13 clinical privileges by a [~~physician~~] licensee while under
14 investigation or in lieu of an investigation. For the purposes
15 of this section, the meaning of these terms shall be as
16 contained in Section 431 of the federal Health Care Quality
17 Improvement Act of 1986, 42 [U.S.C.A. ~~§11151~~] USCA Section
18 11151.

19 B. [~~No~~] The hospitals required to report under this
20 section, health care entities or professional review bodies
21 [~~which~~] that provide such information in good faith shall not
22 be subject to suit for civil damages as a result [~~thereof~~] of
23 providing the information.

24 C. [~~Any~~] A hospital, health care entity or
25 professional review body failing to comply with the reporting

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1 requirements provided in this section shall be subject to civil
2 penalty not to exceed [~~two thousand dollars (\$2,000)~~] ten
3 thousand dollars (\$10,000). "

4 Section 17. Section 61-6-17 NMSA 1978 (being Laws 1973,
5 Chapter 361, Section 8, as amended) is amended to read:

6 "61-6-17. EXCEPTIONS TO ACT. --The Medical Practice Act
7 shall not apply to or affect:

- 8 A. gratuitous services rendered in cases of
9 emergency;
- 10 B. the domestic administration of family remedies;
- 11 C. the practice of midwifery as regulated in this
12 state;
- 13 D. commissioned medical officers of the armed
14 forces of the United States and medical officers of the United
15 States public health service or the veterans administration of
16 the United States in the discharge of their official duties or
17 within federally controlled facilities; provided that such
18 persons who hold medical licenses in New Mexico shall be
19 subject to the provisions of the Medical Practice Act and
20 provided that all such persons shall be fully licensed to
21 practice medicine in one or more jurisdictions of the United
22 States;
- 23 E. the practice of medicine by a physician,
24 unlicensed in New Mexico, who performs emergency medical
25 procedures in air or ground transportation on a patient from

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1 inside of New Mexico to another state or back, provided the
2 physician is duly licensed in that state;

3 F. the practice, as defined and limited under their
4 respective licensing laws, of:

5 (1) osteopathy;

6 (2) dentistry;

7 (3) podiatry;

8 (4) nursing;

9 (5) optometry;

10 (6) psychology;

11 (7) chiropractic;

12 (8) pharmacy;

13 (9) acupuncture and oriental medicine; or

14 (10) physical therapy;

15 G. ~~[any]~~ an act, task or function performed by a
16 physician assistant at the direction of and under the
17 supervision of a licensed physician, when:

18 (1) the assistant is ~~[registered and has~~
19 ~~biennially renewed his registration with]~~ currently licensed by
20 the board ~~[as one qualified by training or experience to~~
21 ~~function as an assistant to a physician];~~

22 (2) the act, task or function is performed at
23 the direction of and under the supervision of a licensed
24 physician in accordance with rules promulgated by the board;
25 and

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1 (3) the acts of the physician assistant are
2 within the scope of duties assigned or delegated by the
3 supervising licensed physician and the acts are within the
4 scope of the assistant's training;

5 H. [~~any~~] an act, task or function of laboratory
6 technicians or technologists, x-ray technicians, nurse
7 practitioners, medical or surgical assistants or other
8 technicians or qualified persons permitted by law or
9 established by custom as part of the duties delegated to them
10 by:

11 (1) a licensed physician or a hospital, clinic
12 or institution licensed or approved by the public health
13 division of the department of health or an agency of the
14 federal government; or

15 (2) a health care program operated or financed
16 by an agency of the state or federal government;

17 I. a properly trained medical or surgical assistant
18 or technician or professional licensee performing under the
19 physician's employment and direct supervision or a visiting
20 physician or surgeon operating under the physician's direct
21 supervision [~~any~~] a medical act that a reasonable and prudent
22 physician would find within the scope of sound medical judgment
23 to delegate if, in the opinion of the delegating physician, the
24 act can be properly and safely performed in its customary
25 manner and if the person does not hold himself out to the

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1 public as being authorized to practice medicine in New Mexico.
2 The delegating physician shall remain responsible for the
3 medical acts of the person performing the delegated medical
4 acts;

5 J. the practice of the religious tenets of ~~[any]~~ a
6 church in the ministrations to the sick or suffering by mental
7 or spiritual means as provided by law; provided that the
8 Medical Practice Act shall not be construed to exempt ~~[any]~~ a
9 person from the operation or enforcement of the sanitary and
10 quarantine laws of the state;

11 K. the acts of a physician licensed under the laws
12 of another state of the United States who is the treating
13 physician of a patient and orders home health or hospice
14 services for a resident of New Mexico to be delivered by a home
15 and community support services agency licensed in this state;
16 provided that ~~[any]~~ a change in the condition of the patient
17 shall be physically reevaluated by the treating physician in
18 the treating physician's jurisdiction or by a licensed New
19 Mexico physician;

20 L. a physician licensed to practice under the laws
21 of another state who acts as a consultant to a
22 New Mexico-licensed physician on an irregular or infrequent
23 basis, as defined by rule of the board; and

24 M a physician who engages in the informal practice
25 of medicine across state lines without compensation or

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1 expectation of compensation; provided that the practice of
2 medicine across state lines conducted within the parameters of
3 a contractual relationship shall not be considered informal and
4 is subject to licensure and ~~[regulation]~~ rule by the board. "

5 Section 18. Section 61-6-18.1 NMSA 1978 (being Laws 1994,
6 Chapter 80, Section 10) is amended to read:

7 "61-6-18.1. PUBLIC SERVICE LICENSE. --

8 A. ~~[A resident physician who holds a postgraduate
9 training license, as provided in Section 61-6-18 NMSA 1978,
10 while serving in a board-approved residency training program in
11 New Mexico, or while enrolled in a board-approved residency
12 training program in another jurisdiction, may apply to the
13 board for a public service license during the resident's tenure
14 in the board-approved residency training program when the
15 resident]~~ Applicants for a public service license shall meet
16 all requirements for licensure and shall:

17 (1) ~~[obtains]~~ obtain written approval from
18 ~~[his]~~ the training program director of the applicant to pursue
19 a public service practice opportunity outside the residency
20 training program;

21 (2) ~~[obtains]~~ obtain advance written approval
22 from ~~[his]~~ the training program director of the applicant to
23 return to the residency training program following the period
24 of public service; and

25 (3) ~~[satisfies any]~~ satisfy other reasonable

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1 requirements imposed by the board.

2 B. A physician with one year postdoctoral training
3 may apply for a public service license when he is under the
4 direct supervision of a licensed physician or has immediate
5 access to a licensed physician by electronic means when the
6 public service physician is employed in a medically underserved
7 area.

8 C. A public service license shall be valid for a
9 period of time not to exceed twelve months. A public service
10 license may be renewed by the board.

11 D. An applicant for a public service license shall
12 pay the required fees set forth in Section 61-6-19 NMSA 1978. "

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

15 "61-6-19. FEES. --

16 A. The board shall impose the following fees:

17 (1) an application fee not to exceed four
18 hundred dollars (\$400) for licensure by endorsement as provided
19 in Section 61-6-13 NMSA 1978;

20 (2) an application fee not to exceed four
21 hundred dollars (\$400) for licensure by examination as provided
22 in Section 61-6-11 NMSA 1978;

23 ~~[(3) an examination fee equal to the cost of~~
24 ~~purchasing the examination plus an administration fee not to~~
25 ~~exceed fifty percent of that cost;~~

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1 ~~(4)~~ (3) a triennial renewal fee not to exceed
2 four hundred fifty dollars (\$450);

3 ~~(5)~~ (4) a fee of twenty-five dollars
4 (\$25.00) for placing a physician's license or a physician
5 assistant's license on inactive status;

6 ~~(6)~~ (5) a late fee not to exceed one hundred
7 dollars (\$100) for physicians who renew their license within
8 forty-five days after the required renewal date;

9 ~~(7)~~ (6) a late fee not to exceed two hundred
10 dollars (\$200) for physicians who renew their licenses between
11 forty-six and ninety days after the required renewal date;

12 ~~(8)~~ (7) a reinstatement fee not to exceed
13 the current application fee for reinstatement of a revoked,
14 suspended or inactive license;

15 ~~(9)~~ (8) a reasonable administrative fee for
16 verification and duplication of license or registration and
17 copying of records;

18 ~~(10)~~ (9) a reasonable publication fee for
19 the purchase of a publication containing the names of all
20 practitioners licensed under the Medical Practice Act;

21 ~~(11)~~ (10) an impaired physician fee not to
22 exceed one hundred fifty dollars (\$150) for a three-year
23 period;

24 ~~(12)~~ (11) an interim license fee not to
25 exceed one hundred dollars (\$100);

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1 [~~(13)~~] (12) a temporary license fee not to
2 exceed one hundred dollars (\$100);

3 [~~(14)~~] (13) a postgraduate training license
4 fee not to exceed fifty dollars (\$50.00) annually;

5 [~~(15)~~] (14) an application fee not to exceed
6 one hundred fifty dollars (\$150) for physician assistants
7 applying for initial licensure;

8 [~~(16)~~] (15) a licensure fee not to exceed one
9 hundred fifty dollars (\$150) for physician assistants biennial
10 licensing and registration of supervising licensed physician;

11 [~~(17)~~] (16) a late fee not to exceed fifty
12 dollars (\$50.00) for physician assistants who renew their
13 licensure within forty-five days after the required renewal
14 date;

15 [~~(18)~~] (17) a late fee not to exceed seventy-
16 five dollars (\$75.00) for physician assistants who renew their
17 licensure between forty-six and ninety days after the required
18 renewal date;

19 (18) a reinstatement fee not to exceed one
20 hundred dollars (\$100) for physician assistants who reinstate
21 an expired license;

22 (19) a processing fee not to exceed fifty
23 dollars (\$50.00) for each change of a supervising licensed
24 physician for a physician assistant;

25 [~~(19)~~] (20) a fee not to exceed three hundred

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1 dollars (\$300) annually for a physician supervising a clinical
2 pharmacist; and

3 [~~(20)~~] (21) an application and renewal fee for
4 a telemedicine license not to exceed four hundred dollars
5 (\$400).

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

8 Section 20. Section 61-6-21 NMSA 1978 (being Laws 1989,
9 Chapter 269, Section 17) is amended to read:

10 "61-6-21. CONTINUING MEDICAL EDUCATION--PENALTY. --

11 A. The board may establish rules [~~and regulations~~]
12 pertaining to continuing medical education for [~~physicians and~~
13 ~~continuing education for physician assistants~~] licensees.

14 B. The board may suspend the license [~~or~~
15 ~~registration~~] of [~~any physician or physician assistant~~] a
16 licensee who fails to comply with continuing medical education
17 or continuing education requirements until [~~such time as~~] the
18 requirements are fulfilled. "

19 Section 21. Section 61-6-23 NMSA 1978 (being Laws 1989,
20 Chapter 269, Section 19) is amended to read:

21 "61-6-23. INVESTIGATION--SUBPOENA. -- [~~For the purpose of~~
22 ~~investigating complaints~~] To investigate a complaint against
23 [~~physicians or physician assistants licensed or registered~~
24 ~~under the provisions of Chapter 61, Article 6 NMSA 1978~~] a
25 licensee, the board may issue investigative subpoenas prior to

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1 the issuance of a notice of contemplated action [~~as set forth~~
2 ~~in Section 61-1-4 NMSA 1978~~]. "

3 Section 22. Section 61-6-26 NMSA 1978 (being Laws 1989,
4 Chapter 269, Section 22, as amended) is amended to read:

5 "61-6-26. TRIENNIAL RENEWAL FEES--PENALTY FOR FAILURE TO
6 RENEW LICENSE. --

7 A. On or before July 1 of every third year, every
8 licensed [~~practitioner of medicine~~] physician in this state
9 shall [~~have applied~~] apply for a certificate of triennial
10 renewal of license for the ensuing three years. The board may
11 establish a method to provide for staggered triennial renewal
12 terms and may prorate triennial renewal fees and impaired
13 physicians fees until staggered triennial renewal is
14 established. The fact that a [~~practitioner~~] licensed physician
15 has not received a renewal form from the board shall not
16 relieve [~~him~~] the physician of the duty to renew [~~his~~] the
17 license [~~nor shall such~~] and the omission [~~on the part of~~] by
18 the board shall not operate to exempt [~~him~~] the physician from
19 the penalties provided by Chapter 61, Article 6 NMSA 1978 for
20 failure to renew his license.

21 B. All licensed [~~practitioners~~] physicians shall
22 pay a triennial renewal fee and impaired physicians fee as
23 provided in Section 61-6-19 NMSA 1978 and [~~all practitioners~~]
24 shall return the completed renewal form together with the
25 renewal fee and [~~proof of continuing medical education~~] other

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1 required documentation.

2 C. Each application for triennial renewal of
3 license shall state the ~~[practitioner's]~~ licensed physician's
4 full name, business address, ~~[the date and number of his~~
5 ~~license]~~ license number and date and all other information
6 requested by the board.

7 D. A ~~[practitioner]~~ licensed physician who fails to
8 submit his application for triennial renewal on or before July
9 1 but who submits his application for triennial renewal ~~[within~~
10 ~~forty-five days thereafter]~~ by August 15 shall be assessed a
11 late fee as provided in Section 61-6-19 NMSA 1978.

12 E. A ~~[practitioner]~~ physician who submits the
13 application for triennial renewal between ~~[forty-five and~~
14 ~~ninety days of the July 1 deadline]~~ August 16 and October 1
15 shall be assessed a cumulative late fee as provided in
16 Paragraph ~~[(7)]~~ (6) of Subsection A of Section 61-6-19 NMSA
17 1978.

18 F. After September 30, the board may, in its
19 discretion, summarily suspend for nonpayment of fees the
20 license of a ~~[practitioner]~~ physician who has failed to renew
21 his license ~~[within ninety days of July 1]. "~~

22 Section 23. Section 61-6-27 NMSA 1978 (being Laws 1945,
23 Chapter 74, Section 2, as amended) is amended to read:

24 "61-6-27. ISSUANCE AND DISPLAY OF RENEWAL CERTIFICATE. --
25 The board shall issue to each ~~[duly]~~ licensed ~~[practitioner]~~

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1 physician, upon [~~his~~] application in accordance with the
2 provisions of the Medical Practice Act and upon payment of the
3 appropriate fees and upon documentation of continuing education
4 requirements, a certificate of triennial renewal, under the
5 seal of the board, for the ensuing three years. The
6 certificate of renewal shall contain the [~~practitioner's~~]
7 licensed physician's name, [~~his~~] business address, [~~the date~~
8 ~~and number of his license to practice~~] license date and number
9 and [~~such~~] other information as the board deems advisable. The
10 certificate of triennial renewal shall, at all times, be
11 displayed conspicuously in the principal office or practice
12 location of the [~~practitioner~~] licensed physician to whom it
13 has been issued. "

14 Section 24. Section 61-6-28 NMSA 1978 (being Laws 1945,
15 Chapter 74, Section 3, as amended) is amended to read:

16 "61-6-28. [~~PRACTITIONERS~~] LICENSED PHYSICIANS CHANGING
17 LOCATION OR BEGINNING PRACTICE. -- [~~Any practitioner~~] A licensed
18 physician who changes the location of his office or residence
19 [~~during the period between any two triennial renewal dates~~]
20 shall [~~before doing so~~] promptly notify the board of [~~such~~] the
21 change. [~~Any person who desires to begin the practice of~~
22 ~~medicine and surgery in this state shall, before beginning such~~
23 ~~practice, register and pay the triennial renewal fee for that~~
24 ~~year as provided in the Medical Practice Act.~~]"

25 Section 25. Section 61-6-30 NMSA 1978 (being Laws 1969,

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1 Chapter 46, Section 15, as amended) is amended to read:

2 "61-6-30. RESTORATION OF GOOD STANDING-- FEES AND OTHER
3 REQUIREMENTS FOR DELINQUENT REGISTRANTS. --

4 A. Before restoring to good standing a license [~~or~~
5 ~~certificate of registration which~~] that has been in a revoked,
6 suspended or inactive status for any cause for more than two
7 years, the board may require the applicant to pass an oral or
8 written examination, or both, to determine [~~his~~] present
9 fitness of the applicant to resume practice and may impose
10 conditions in its discretion.

11 B. The authority of the board to impose terms and
12 conditions includes, but is not limited to, the following:

13 (1) requiring the applicant to obtain
14 additional training and to pass an examination upon completion
15 of such training; or

16 (2) restricting or limiting the extent, scope
17 or type of practice of the applicant.

18 C. The board shall also consider the moral
19 background and the activities of the applicant during the
20 period of suspension or inactivity.

21 D. If the board in its discretion determines that
22 the applicant is qualified to be reissued a license [~~or~~
23 ~~certificate of registration~~] in good standing, the applicant
24 shall [~~also~~] pay to the board [~~all fees for the current and all~~
25 ~~delinquent years~~] a reinstatement fee not to exceed the current

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1 application fee for reinstatement of a revoked, suspended or
2 inactive license. "

3 Section 26. Section 61-6-31 NMSA 1978 (being Laws 1989,
4 Chapter 269, Section 27) is amended to read:

5 "61-6-31. DISPOSITION OF FUNDS--MEDICAL BOARD [~~OF MEDICAL~~
6 ~~EXAMINERS~~] FUND CREATED--METHOD OF PAYMENTS.--

7 A. There is created the "medical board [~~of medical~~
8 ~~examiners~~] fund".

9 B. All funds received by the board and money
10 collected under the Medical Practice Act, the Physician
11 Assistant Act and the Impaired [~~Physician~~] Health Care Provider
12 Act shall be deposited with the state treasurer who shall place
13 the same to the credit of the medical [~~examiners~~] board fund.

14 [~~C. All payments out of the fund shall be made on~~
15 ~~vouchers issued and signed by the secretary-treasurer of the~~
16 ~~board or his designee upon warrants drawn by the department of~~
17 ~~finance and administration in accordance with the budget~~
18 ~~approved by that department.~~

19 ~~D.] C.~~ All amounts in the medical board [~~of medical~~
20 ~~examiners~~] fund shall be subject to the order of the board and
21 shall be used only for the purpose of meeting necessary
22 expenses incurred in:

23 (1) the performance of the provisions of the
24 Medical Practice Act, the Physician Assistant Act and the
25 Impaired [~~Physician~~] Health Care Provider Act and the duties

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1 and powers imposed ~~[thereby]~~ by the acts; and

2 (2) the promotion of medical education and
3 standards in this state within the budgetary limits.

4 ~~[E.]~~ D. All funds ~~[which]~~ that may have accumulated
5 to the credit of the board under any previous law shall be
6 transferred to the medical ~~[examiners]~~ board fund and shall
7 continue to be available for use by the board in accordance
8 with the provisions of the Medical Practice Act, the Physician
9 Assistant Act and the Impaired ~~[Physieian]~~ Health Care Provider
10 Act. All money unused at the end of the fiscal year shall not
11 revert, but shall remain in the medical ~~[examiners]~~ board fund
12 for use in accordance with the provisions of the Medical
13 Practice Act, the Physician Assistant Act and the Impaired
14 ~~[Physieian]~~ Health Care Provider Act.

15 ~~[F. The secretary-treasurer and any employee of the~~
16 ~~board who handles money or who certifies the receipt or~~
17 ~~disbursal of money received by the board shall, within thirty~~
18 ~~days after election or employment by the board, execute a bond~~
19 ~~in accordance with the provisions of the Surety Bond Act~~
20 ~~conditioned on the faithful performance of the duties of the~~
21 ~~office or position and on an accounting of all funds coming~~
22 ~~into his hands.]"~~

23 Section 27. Section 61-6-33 NMSA 1978 (being Laws 1989,
24 Chapter 269, Section 29, as amended) is amended to read:

25 "61-6-33. LICENSURE STATUS. -- Upon a verified written

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1 request, [~~any practitioner licensed under the Medical Practice~~
2 ~~Act~~] a licensee may request [~~his~~] that the license be put in
3 retirement, inactive or voluntary lapsed status. Upon request
4 for reinstatement of active status, the board may impose
5 conditions as provided in Section 61-6-30 NMSA 1978. "

6 Section 28. TEMPORARY PROVISION--TRANSFER OF PERSONNEL,
7 PROPERTY, CONTRACTS AND REFERENCES IN LAW.--On July 1, 2003:

8 A. all functions, personnel, appropriations, money,
9 records, equipment, supplies and other property of the New
10 Mexico board of medical examiners shall be transferred to the
11 medical board;

12 B. all contracts of the New Mexico board of medical
13 examiners shall be binding and effective on the medical board;
14 and

15 C. all references in law to the New Mexico board of
16 medical examiners shall be deemed to be references to the
17 medical board.

18 Section 29. REPEAL.--Sections 61-6-8, 61-6-8.1, 61-6-10.8
19 and 61-6-29 NMSA 1978 (being Laws 1973, Chapter 361, Section 4,
20 Laws 1997, Chapter 187, Section 6, Laws 2001, Chapter 311,
21 Section 8 and Laws 1989, Chapter 269, Section 25, as amended)
22 are repealed.