

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AN ACT

RELATING TO THE PRACTICE OF MEDICINE; PROVIDING FOR
COLLABORATION BETWEEN A PHYSICIAN ASSISTANT AND A LICENSED
PHYSICIAN.

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

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

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

A. "approved postgraduate training program" means
a program approved by the accreditation council for graduate
medical education;

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

C. "collaboration" means the process by which a
licensed physician and a physician assistant jointly
contribute to the health care and medical treatment of
patients; provided that:

(1) each collaborator performs actions that
the collaborator is licensed or otherwise authorized to
perform; and

(2) collaboration shall not be construed to
require the physical presence of the licensed physician at
the time and place services are rendered;

D. "licensed physician" means a medical doctor

1 licensed under the Medical Practice Act to practice medicine
2 in New Mexico;

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

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

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

14 H. "physician assistant" means a health
15 professional who is licensed by the board to practice as a
16 physician assistant and who provides services to patients
17 with the supervision of or in collaboration with a licensed
18 physician as set forth in rules promulgated by the board;

19 I. "intern" means a first-year postgraduate
20 student upon whom a degree of doctor of medicine and surgery
21 or equivalent degree has been conferred by a medical college
22 or school in good standing;

23 J. "resident" means a graduate of a medical
24 college or school in good standing who is in training in a
25 board-approved and accredited residency training program in a

1 hospital or facility affiliated with an approved hospital and
2 who has been appointed to the position of "resident" or
3 "fellow" for the purpose of postgraduate medical training;

4 K. "the practice of medicine" consists of:

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

8 (2) offering or undertaking to administer,
9 dispense or prescribe a drug or medicine for the use of
10 another person, except as authorized pursuant to a
11 professional or occupational licensing statute set forth in
12 Chapter 61 NMSA 1978;

13 (3) offering or undertaking to give or
14 administer, dispense or prescribe a drug or medicine for the
15 use of another person, except as directed by a licensed
16 physician;

17 (4) offering or undertaking to perform an
18 operation or procedure upon a person;

19 (5) offering or undertaking to diagnose,
20 correct or treat in any manner or by any means, methods,
21 devices or instrumentalities any disease, illness, pain,
22 wound, fracture, infirmity, deformity, defect or abnormal
23 physical or mental condition of a person;

24 (6) offering medical peer review,
25 utilization review or diagnostic service of any kind that

1 directly influences patient care, except as authorized
2 pursuant to a professional or occupational licensing statute
3 set forth in Chapter 61 NMSA 1978; or

4 (7) acting as the representative or agent of
5 a person in doing any of the things listed in this
6 subsection;

7 L. "the practice of medicine across state lines"
8 means:

9 (1) the rendering of a written or otherwise
10 documented medical opinion concerning diagnosis or treatment
11 of a patient within this state by a physician located outside
12 this state as a result of transmission of individual patient
13 data by electronic, telephonic or other means from within
14 this state to the physician or the physician's agent; or

15 (2) the rendering of treatment to a patient
16 within this state by a physician located outside this state
17 as a result of transmission of individual patient data by
18 electronic, telephonic or other means from within this state
19 to the physician or the physician's agent;

20 M. "sexual contact" means touching the primary
21 genital area, groin, anus, buttocks or breast of a patient or
22 allowing a patient to touch another's primary genital area,
23 groin, anus, buttocks or breast in a manner that is commonly
24 recognized as outside the scope of acceptable medical
25 practice;

1 N. "sexual penetration" means sexual intercourse,
2 cunnilingus, fellatio or anal intercourse, whether or not
3 there is any emission, or introducing any object into the
4 genital or anal openings of another in a manner that is
5 commonly recognized as outside the scope of acceptable
6 medical practice; and

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

9 SECTION 2. Section 61-6-7 NMSA 1978 (being Laws 1973,
10 Chapter 361, Section 3, as amended) is amended to read:

11 "61-6-7. SHORT TITLE--LICENSURE AS A PHYSICIAN
12 ASSISTANT--SCOPE OF PRACTICE--BIENNIAL REGISTRATION OF
13 SUPERVISION--LICENSE RENEWAL--FEES.--

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

16 B. The board may license as a physician assistant
17 a qualified person who has graduated from a physician
18 assistant program accredited by the national accrediting body
19 as established by rule and has passed a physician assistant
20 national certifying examination as established by rule. The
21 board may also license as a physician assistant a person who
22 passed the physician assistant national certifying
23 examination administered by the national commission on
24 certification of physician assistants prior to 1986.

25 C. A person shall not perform, attempt to perform

1 or hold the person's own self out as a physician assistant
2 without first applying for and obtaining a license from the
3 board.

4 D. Physician assistants may prescribe, administer,
5 dispense and distribute dangerous drugs other than controlled
6 substances in Schedule I of the Controlled Substances Act
7 pursuant to rules adopted by the board after consultation
8 with the board of pharmacy if the prescribing, administering,
9 dispensing and distributing are done with the supervision of
10 a licensed physician or in collaboration with a licensed
11 physician. The distribution process shall comply with state
12 laws concerning prescription packaging, labeling and
13 recordkeeping requirements.

14 E. A physician assistant shall perform only the
15 acts and duties that are within the physician assistant's
16 scope of practice.

17 F. An applicant for licensure as a physician
18 assistant shall complete application forms supplied by the
19 board and shall pay a licensing fee as provided in Section
20 61-6-19 NMSA 1978.

21 G. A physician assistant shall biennially submit
22 proof of current certification by the national commission on
23 certification of physician assistants or another certifying
24 agency as designated by rules promulgated by the board and
25 shall renew the license and registration of supervision of

1 the physician assistant with the board.

2 H. A physician assistant shall not practice
3 medicine until the physician assistant has established a
4 supervising or collaborating relationship with a licensed
5 physician in accordance with rules adopted by the board.

6 I. Each biennial renewal of licensure shall be
7 accompanied by a fee as provided in Section 61-6-19 NMSA
8 1978."

9 SECTION 3. Section 61-6-9 NMSA 1978 (being Laws 1973,
10 Chapter 361, Section 5, as amended) is amended to read:

11 "61-6-9. PHYSICIAN ASSISTANTS--RULES.--The board may
12 adopt and enforce reasonable rules for:

13 A. education, skill and experience for licensure
14 of a person as a physician assistant and providing forms and
15 procedures for biennial license renewal;

16 B. examining and evaluating an applicant for
17 licensure as a physician assistant as to skill, knowledge and
18 experience of the applicant in the field of medical care;

19 C. establishing when and for how long physician
20 assistants are permitted to prescribe, administer, dispense
21 and distribute dangerous drugs other than controlled
22 substances in Schedule I of the Controlled Substances Act
23 pursuant to rules adopted by the board after consultation
24 with the board of pharmacy;

25 D. allowing a supervising or collaborating

1 licensed physician to temporarily delegate supervision or
2 collaboration responsibilities for a physician assistant to
3 another licensed physician;

4 E. establishing when a physician assistant may
5 engage in the practice of medicine in collaboration with a
6 licensed physician; and

7 F. carrying out all other provisions of the
8 Physician Assistant Act."

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

11 "61-6-10. SUPERVISING OR COLLABORATING LICENSED
12 PHYSICIAN--RESPONSIBILITY.--

13 A. As a condition of licensure, all physician
14 assistants practicing in New Mexico shall be supervised by a
15 physician licensed pursuant to the Medical Practice Act. The
16 physician assistant shall inform the board of the name of the
17 licensed physician under whose supervision the physician
18 assistant will practice. All supervising physicians shall be
19 licensed pursuant to the Medical Practice Act and shall be
20 approved by the board.

21 B. Every licensed physician supervising a licensed
22 physician assistant shall be individually responsible and
23 liable for the performance of the acts and omissions
24 delegated to the physician assistant the physician
25 supervises. Nothing in this section shall be construed to

1 relieve the physician assistant of responsibility and
2 liability for the acts and omissions of the physician
3 assistant. Rules promulgated pursuant to the Physician
4 Assistant Act shall:

5 (1) require that a physician assistant whose
6 practice is a specialty care, as defined by the board, shall
7 be supervised by a licensed physician in accordance with
8 requirements established by the board; and

9 (2) allow a physician assistant whose
10 practice is primary care, as defined by the board, to
11 collaborate with a licensed physician in accordance with
12 requirements established by the board for different practice
13 settings.

14 C. A physician assistant shall be supervised by or
15 collaborate with a physician in accordance with rules adopted
16 by the board."

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

19 "61-6-17. EXCEPTIONS TO ACT.--The Medical Practice Act
20 shall not apply to or affect:

21 A. gratuitous services rendered in cases of
22 emergency;

23 B. the domestic administration of family remedies;

24 C. the practice of midwifery as regulated in this
25 state;

1 D. commissioned medical officers of the armed
2 forces of the United States and medical officers of the
3 commissioned corps of the United States public health service
4 or the United States department of veterans affairs in the
5 discharge of their official duties or within federally
6 controlled facilities; provided that such persons who hold
7 medical licenses in New Mexico shall be subject to the
8 provisions of the Medical Practice Act; and provided further
9 that all such persons shall be fully licensed to practice
10 medicine in one or more jurisdictions of the United States;

11 E. the practice of medicine by a physician,
12 unlicensed in New Mexico, who performs emergency medical
13 procedures in air or ground transportation on a patient from
14 inside of New Mexico to another state or back; provided that
15 the physician is duly licensed in that state;

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

- 18 (1) osteopathy;
- 19 (2) dentistry;
- 20 (3) podiatry;
- 21 (4) nursing;
- 22 (5) optometry;
- 23 (6) psychology;
- 24 (7) chiropractic;
- 25 (8) pharmacy;

1 (9) acupuncture and oriental medicine; or

2 (10) physical therapy;

3 G. an act, task or function performed by a
4 physician assistant, at the direction of and with the
5 supervision of or in collaboration with, a licensed
6 physician, when:

7 (1) the physician assistant is currently
8 licensed by the board;

9 (2) the act, task or function is performed
10 with the supervision of a licensed physician or in
11 collaboration with a licensed physician in accordance with
12 rules promulgated by the board; and

13 (3) the acts of the physician assistant are
14 within the scope of duties assigned or delegated by the
15 supervising or collaborating licensed physician and the acts
16 are within the scope of the physician assistant's training;

17 H. an act, task or function of laboratory
18 technicians or technologists, x-ray technicians, nurse
19 practitioners, medical or surgical assistants or other
20 technicians or qualified persons permitted by law or
21 established by custom as part of the duties delegated to them
22 by:

23 (1) a licensed physician or a hospital,
24 clinic or institution licensed or approved by the public
25 health division of the department of health or an agency of

1 the federal government; or

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

4 I. a properly trained medical or surgical
5 assistant or technician or professional licensee performing
6 under the physician's employment and direct supervision or a
7 visiting physician or surgeon operating under the physician's
8 direct supervision a medical act that a reasonable and
9 prudent physician would find within the scope of sound
10 medical judgment to delegate if, in the opinion of the
11 delegating physician, the act can be properly and safely
12 performed in its customary manner and if the person does not
13 hold the person's own self out to the public as being
14 authorized to practice medicine in New Mexico. The
15 delegating physician shall remain responsible for the medical
16 acts of the person performing the delegated medical acts;

17 J. the practice of the religious tenets of a
18 church in the ministration to the sick or suffering by mental
19 or spiritual means as provided by law; provided that the
20 Medical Practice Act shall not be construed to exempt a
21 person from the operation or enforcement of the sanitary and
22 quarantine laws of the state;

23 K. the acts of a physician licensed under the laws
24 of another state of the United States who is the treating
25 physician of a patient and orders home health or hospice

1 services for a resident of New Mexico to be delivered by a
2 home and community support services agency licensed in this
3 state; provided that a change in the condition of the patient
4 shall be physically reevaluated by the treating physician in
5 the treating physician's jurisdiction or by a licensed New
6 Mexico physician;

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

11 M. a physician who engages in the informal
12 practice of medicine across state lines without compensation
13 or expectation of compensation; provided that the practice of
14 medicine across state lines conducted within the parameters
15 of a contractual relationship shall not be considered
16 informal and is subject to licensure and rule by the board."

17 **SECTION 6.** A new section of the Physician Assistant Act
18 is enacted to read:

19 "PHYSICIAN ASSISTANT COLLABORATION WITH LICENSED
20 PHYSICIANS--SCOPE OF PRACTICE--MEDICAL MALPRACTICE
21 INSURANCE.--

22 A. A physician assistant may perform the acts and
23 duties that are within the physician assistant's scope of
24 practice in collaboration with a licensed physician, if the
25 physician assistant has:

1 (1) completed three years of clinical
2 practice as a physician assistant with the supervision of a
3 licensed physician; and

4 (2) complied with rules adopted by the board
5 establishing qualifications for when a physician assistant
6 may engage in the practice of medicine in collaboration with
7 a licensed physician.

8 B. A physician assistant practicing in
9 collaboration with a licensed physician shall, at a minimum,
10 maintain a policy of malpractice liability insurance that
11 will qualify the physician assistant under the provisions of
12 the Medical Malpractice Act."

13 SECTION 7. 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
19 provided 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
22 provided in Section 61-6-11 NMSA 1978;

23 (3) a triennial renewal fee not to exceed
24 four hundred fifty dollars (\$450);

25 (4) a fee of twenty-five dollars (\$25.00)

1 for placing a physician's license or a physician assistant's
2 license on inactive status;

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

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

10 (7) a reinstatement fee not to exceed six
11 hundred dollars (\$600) for reinstatement of a revoked,
12 suspended or inactive license;

13 (8) a reasonable administrative fee for
14 verification and duplication of license or registration and
15 copying of records;

16 (9) a reasonable publication fee for the
17 purchase of a publication containing the names of all
18 practitioners licensed under the Medical Practice Act;

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

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

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

25 (13) a postgraduate training license fee not

1 to exceed fifty dollars (\$50.00) annually;

2 (14) an application fee not to exceed one
3 hundred fifty dollars (\$150) for physician assistants
4 applying for initial licensure;

5 (15) a licensure fee not to exceed one
6 hundred fifty dollars (\$150) for physician assistants
7 biennial license renewal and registration of supervising or
8 collaborating licensed physician;

9 (16) a late fee not to exceed fifty dollars
10 (\$50.00) for physician assistants who renew their licensure
11 within forty-five days after the required renewal date;

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

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

19 (19) a fee not to exceed three hundred
20 dollars (\$300) annually for a physician supervising a
21 clinical pharmacist;

22 (20) an application and renewal fee for a
23 telemedicine license not to exceed four hundred dollars
24 (\$400);

25 (21) a reasonable administrative fee, not to

1 exceed the current cost of application for a license, that
2 may be charged for reprocessing applications and renewals
3 that include minor but significant errors and that would
4 otherwise be subject to investigation and possible
5 disciplinary action; and

6 (22) a reasonable fee as established by the
7 department of public safety for nationwide and statewide
8 criminal history screening of applicants and licensees.

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

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25