

## NEW MEXICO NURSING PRACTICE ACT CHAPTER 61

### ARTICLE 3

#### **61-3-1. Short title.**

Chapter 61, Article 3 NMSA 1978 may be cited as the "Nursing Practice Act".

**History:** 1953 Comp., § 67-2-1, enacted by Laws 1968, ch. 44, § 1; 2003, ch. 276, § 1; 2003, ch. 282, § 1; 2003, ch. 307, § 4.

#### **61-3-2. Purpose.**

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

**History:** 1953 Comp., § 67-2-2, enacted by Laws 1968, ch. 44, § 2; 1991, ch. 190, § 1; 2001, ch. 137, § 1.

#### **61-3-3. Definitions.**

As used in the Nursing Practice Act:

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

B. "board" means the board of nursing;

C. "certified hemodialysis technician" means a person who is certified by the board to assist in the direct care of a patient undergoing hemodialysis, under the supervision and at the direction of a registered nurse or a licensed practical nurse, according to the rules adopted by the board;

D. "certified medication aide" means a person who is certified by the board to administer medications under the supervision and at the direction of a registered nurse or a licensed practical nurse, according to the rules adopted by the board;

E. "certified nurse practitioner" means a registered nurse who is licensed by the board for advanced practice as a certified nurse practitioner and whose name and pertinent information are entered on the list of certified nurse practitioners maintained by the board;

F. "certified registered nurse anesthetist" means a registered nurse who is licensed by the board for advanced practice as a certified registered nurse anesthetist and whose name and pertinent information are entered on the list of certified registered nurse anesthetists maintained by the board;

G. "clinical nurse specialist" means a registered nurse who is licensed by the board for advanced practice as a clinical nurse specialist and whose name and pertinent information are entered on the list of clinical nurse specialists maintained by the board;

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

I. "licensed practical nurse" means a nurse who practices licensed practical nursing and whose name and pertinent information are entered in the register of licensed practical nurses maintained by the board or a nurse who practices licensed practical nursing pursuant to a multistate licensure privilege as provided in the Nurse Licensure Compact;

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

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

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

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

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

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

K. "Nurse Licensure Compact" means the agreement entered into between New Mexico and other jurisdictions permitting the practice of professional registered nursing or licensed practical nursing pursuant to a multistate licensure privilege;

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

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

(1) initiating and maintaining comfort measures;

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

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

- (4) collaborating on the health care regimen;
- (5) administering medications and performing treatments prescribed by a person authorized in this state or in any other state in the United States to prescribe them;
- (6) recording and reporting nursing observations, assessments, interventions and responses to health care;
- (7) providing counseling and health teaching;
- (8) delegating and supervising nursing interventions that may be performed safely by others and are not in conflict with the Nursing Practice Act; and
- (9) maintaining accountability for safe and effective nursing care;

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

- (1) assessing the health status of individuals, families and communities;
- (2) establishing a nursing diagnosis;
- (3) establishing goals to meet identified health care needs;
- (4) developing a plan of care;
- (5) determining nursing intervention to implement the plan of care;
- (6) implementing the plan of care commensurate with education and verified competence;
- (7) evaluating responses to interventions;
- (8) teaching based on the theory and practice of nursing;
- (9) managing and supervising the practice of nursing;
- (10) collaborating with other health care professionals in the management of health care; and
- (11) conducting nursing research;

O. "registered nurse" means a nurse who practices professional registered nursing and whose name and pertinent information are entered in the register of licensed registered nurses maintained by the board or a nurse who practices professional registered nursing pursuant to a multistate licensure privilege as provided in the Nurse Licensure Compact;

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

Q. "training program" means an educational program approved by the board.

History: 1978 Comp., § 61-3-3, enacted by Laws 1991, ch. 190, § 2; 1993, ch. 61, § 1; 1997, ch. 244, § 3; 2001, ch. 137, § 2; 2003, ch. 307, § 5; 2005, ch. 307, § 1.

#### **61-3-4. Criminal offender's character evaluation.**

The provisions of the Criminal Offender Employment Act [28-2-1 to 28-2-6 NMSA 1978] shall govern any consideration of criminal records required or permitted by the Nursing Practice Act.

**History:** 1953 Comp., § 67-2-3.1, enacted by Laws 1974, ch. 78, § 12.

#### **61-3-5. License required.**

A. Except as otherwise provided in the Nursing Practice Act, no person shall use the title "nurse" unless the person is licensed or has been licensed in the past as a registered nurse or licensed practical nurse under the Nursing Practice Act.

B. Except as otherwise provided in the Nursing Practice Act, unless licensed as a registered nurse under the Nursing Practice Act, no person shall:

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

- (3) engage in a nursing specialty as defined by the board.

C. Except as otherwise provided in the Nursing Practice Act, unless licensed as a licensed practical nurse under the Nursing Practice Act, no person shall:

- (1) practice licensed practical nursing; or
- (2) use the title "licensed practical nurse" or the abbreviation "L.P.N." or any other abbreviation thereof or use any other title, abbreviation, letters, figures, signs or devices to indicate or imply that the person is a licensed practical nurse.

D. Unless licensed as a certified nurse practitioner under the Nursing Practice Act, no person shall:

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

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

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

F. Unless licensed as a clinical nurse specialist under the Nursing Practice Act, no person shall:

- (1) practice as a clinical nurse specialist; or

(2) use the title "clinical nurse specialist" or the abbreviation "C.N.S." or any other title, abbreviation, letters, figures, signs or devices to indicate or imply that the person is a clinical nurse specialist.

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

**History:** 1953 Comp., § 67-2-4, enacted by Laws 1968, ch. 44, § 4; 1977, ch. 220, § 2; 1985, ch. 67, § 2; 1991, ch. 190, § 3; 1997, ch. 244, § 4; 2001, ch. 137, § 3; 2003, ch. 307, § 6.

#### **61-3-5.1. Temporary licensure.**

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

**History:** Laws 2001, ch. 137, § 14.

#### **61-3-6. Administration of anesthetics.**

It is unlawful for any person, other than a person licensed in New Mexico to practice medicine, osteopathy or dentistry or a currently licensed certified registered nurse anesthetist, to administer anesthetics to any person. Nothing in this section prohibits a person currently licensed pursuant to the Nursing Practice Act from using hypnosis or from administering local anesthetics or moderate sedation.

**History:** 1953 Comp., § 67-2-4.1, enacted by Laws 1973, ch. 149, § 2; 1979, ch. 379, § 2; 1985, ch. 67, § 3; 1991, ch. 190, § 4; 1997, ch. 244, § 5; 2005, ch. 307, § 2.

#### **61-3-7. Repealed.**

#### **61-3-8. Board created; members; qualifications; terms; vacancies; removal.**

A. There is created a seven-member "board of nursing". The board shall consist of four licensed nurses, one preferably a licensed practical nurse, and three members who shall represent the public and shall not have been licensed as registered or licensed practical nurses, nor shall the public members have any significant financial interest, direct or indirect, in the profession regulated. Not more than two board members shall be appointed from any one county, and not more than two registered nurse members shall be from any one field of nursing. Members of the board shall be appointed by the governor for staggered terms of four years each. Nurse members shall be appointed from lists submitted to the governor by any generally recognized organization of nurses in this state. Appointments shall be made in such manner that the terms of no more than two board members expire on July 1 of each year. Vacancies shall be filled by appointment by the governor for the unexpired term within sixty days of the vacancy. Board members shall serve until their successors have been appointed and qualified.

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

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

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

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

F. In the event of a vacancy on the board for any reason, the secretary of the board shall immediately notify the governor, the board members and any generally recognized nursing organization of the vacancy, the reason for its occurrence and the action taken by the board, so as to expedite the appointment of a new board member.

**History:** 1953 Comp., § 67-2-5, enacted by Laws 1968, ch. 44, § 5; 1977, ch. 220, § 3; 1979, ch. 379, § 3; 1991, ch. 189, § 3; 1991, ch. 190, § 5.

#### **61-3-9. Board meetings; quorum; officers.**

A. The board shall annually elect a chairman, vice chairman and secretary from its entire membership.

B. The board shall meet at least once every three months. Special meetings may be called by the chairman and shall be called upon the written request of three or more members of the board. Notification of special meetings shall be made by certified mail unless such notice is waived by the entire board and noted in the minutes. Notice of all regular meetings shall be made by regular mail at least ten days prior to the meeting, and copies of the minutes of all meetings shall be mailed to each board member within thirty days after any meeting.

C. A majority of the board, including at least one officer, constitutes a quorum.

**History:** 1953 Comp., § 67-2-6, enacted by Laws 1968, ch. 44, § 6; 1985, ch. 67, § 4.

#### **61-3-10. Powers; duties.**

The board:

- A. shall adopt and revise such rules and regulations as may be necessary to enable it to carry into effect the provisions of the Nursing Practice Act and to maintain high standards of practice;
- B. shall prescribe standards and approve curricula for educational programs preparing persons for licensure under the Nursing Practice Act;
- C. shall provide for surveys of educational programs preparing persons for licensure under the Nursing Practice Act;
- D. shall grant, deny or withdraw approval from educational programs for failure to meet prescribed standards, if a majority of the board concurs in the decision;
- E. shall provide for the examination, licensing and renewal of licenses of applicants;
- F. shall conduct hearings upon charges relating to discipline of a licensee or nurse not licensed to practice in New Mexico who is permitted to practice professional registered nursing or licensed practical nursing in New Mexico pursuant to a multistate licensure privilege as provided in the Nurse Licensure Compact [61-3-24.1 NMSA 1978] or the denial, suspension or revocation of a license in accordance with the procedures of the Uniform Licensing Act [61-1-1 NMSA 1978];
- G. shall cause the prosecution of all persons, including firms, associations, institutions and corporations, violating the Nursing Practice Act and have the power to incur such expense as is necessary therefor;
- H. shall keep a record of all proceedings;
- I. shall make an annual report to the governor;
- J. shall appoint and employ a qualified registered nurse, who shall not be a member of the board, to serve as executive officer to the board, who shall define the duties and responsibilities of the executive officer, except that the power to grant, deny or withdraw approval for schools of nursing or to revoke, suspend or withhold any license authorized by the Nursing Practice Act shall not be delegated by the board;
- K. shall provide for such qualified assistants as may be necessary to carry out the provisions of the Nursing Practice Act. Such employees shall be paid a salary commensurate with their duties;
- L. shall, for the purpose [purposes] of protecting the health and well-being of the citizens of New Mexico and promoting current nursing knowledge and practice, adopt rules and regulations establishing continuing education requirements as a condition of license renewal and shall study methods of monitoring continuing competence;
- M. may appoint advisory committees consisting of at least one member who is a board member and at least two members expert in the pertinent field of health care to assist it in the performance of its duties. Committee members may be reimbursed as provided in the Per Diem and Mileage Act [10-8-1 NMSA 1978];
- N. may adopt and revise rules and regulations designed to maintain an inactive status listing for registered nurses and licensed practical nurses;
- O. may adopt rules and regulations to regulate the advanced practice of professional registered nursing and expanded practice of licensed practical nursing;

P. shall license qualified certified nurse practitioners, certified registered nurse anesthetists and clinical nurse specialists;

Q. shall register nurses not licensed to practice in New Mexico who are permitted to practice professional registered nursing or licensed practical nursing in New Mexico pursuant to a multistate licensure privilege as provided in the Nurse Licensure Compact; and

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

**History:** 1953 Comp., § 67-2-7, enacted by Laws 1968, ch. 44, § 7; 1977, ch. 220, § 4; 1991, ch. 190, § 6; 1997, ch. 244, § 6; 2003, ch. 276, § 4; 2003, ch. 307, § 7.

### **61-3-10.1. Hemodialysis technicians; training programs; certification.**

A. A statewide program for certification of hemodialysis technicians is created according to the rules adopted by the board.

B. Unless certified as a certified hemodialysis technician pursuant to the Nursing Practice Act, no person shall:

(1) practice as a certified hemodialysis technician; or

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

C. The board shall:

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

(2) adopt rules for certified hemodialysis technician training programs, including standards and curricula;

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

(4) grant, deny or withdraw approval from a training program that fails to meet prescribed standards or fails to maintain a current contract with the board; and

(5) conduct disciplinary hearings of certified hemodialysis technicians or on the denial, suspension or revocation of certified hemodialysis technician certificates in accordance with the Uniform Licensing Act [61-1-1 NMSA 1978].

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

E. Every certificate issued by the board to practice as a certified hemodialysis technician shall be renewed every two years. The certified hemodialysis technician seeking renewal shall submit proof of employment as a certified hemodialysis technician and proof of having met continuing education requirements adopted by the board.

F. The board shall set the following nonrefundable fees:

- (1) for initial certification by initial or subsequent examination, a fee not to exceed sixty dollars (\$60.00);
- (2) for renewal of certification, a fee not to exceed sixty dollars (\$60.00);
- (3) for reactivation of a lapsed certificate after failure to renew a certificate or following board action, a fee not to exceed sixty dollars (\$60.00);
- (4) for initial review and approval of a training program, a fee not to exceed three hundred dollars (\$300);
- (5) for subsequent review and approval of a training program that has changed, a fee not to exceed two hundred dollars (\$200);
- (6) for subsequent review and approval of a training program when a change has been required by a change in board policy or rules, a fee not to exceed fifty dollars (\$50.00); and
- (7) for periodic evaluation of a training program, a fee not to exceed two hundred dollars (\$200).

History: 1978 Comp., § 61-3-10.1, enacted by Laws 1993, ch. 61, § 2; 1997, ch. 244, § 7; 2001, ch. 137, § 4; 2003, ch. 276, § 5; 2005, ch. 307, § 3.

#### **61-3-10.2. Medication aides.**

A. A statewide program for certification of medication aides and approval of medication aide training programs is created under the board.

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

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

C. The board shall:

- (1) maintain a permanent register of all persons certified to practice as a certified medication aide;
- (2) adopt rules for certified medication aide education and certification, including standards and curricula;
- (3) adopt rules governing the supervision of certified medication aides by licensed nurses, including standards and performance evaluations of certified medication aides;
- (4) conduct disciplinary hearings of certified medication aides or on the denial, suspension or revocation of certified medication aide certificates in accordance with the Uniform Licensing Act; and
- (5) grant approval to a certified medication aide training program that meets all the requirements set by the board and deny or withdraw approval from medication

aide training programs that fail to meet prescribed standards or fail to maintain a current contract.

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

E. Every certificate issued by the board to practice as a certified medication aide shall be renewed every two years. The certified medication aide seeking renewal shall submit proof of employment as a certified medication aide and proof of having met continuing education requirements adopted by the board.

F. The board shall set the following nonrefundable fees:

(1) for initial certification by initial or subsequent examination, a fee not to exceed sixty dollars (\$60.00);

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

(3) for reactivation of a lapsed certificate after failure to renew a certificate or following board action, a fee not to exceed sixty dollars (\$60.00);

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

(5) for subsequent review and approval of a training program that has changed, a fee not to exceed two hundred dollars (\$200);

(6) for subsequent review and approval of a training program when a change has been required by a change in board policy or rules, a fee not to exceed fifty dollars (\$50.00); and

(7) for periodic evaluation of a training program, a fee not to exceed two hundred dollars (\$200).

History: 1978 Comp., § 61-3-10.2, enacted by Laws 1991, ch. 209, § 1; 1993, ch. 138, § 1; 1995, ch. 118, § 1; 1997, ch. 244, § 8; 2001, ch. 137, § 5; 2003, ch. 276, § 6; 2005, ch. 303, § 1; 2005, ch. 307, § 4.

"61-3-10.2. Medication aides.

A. A statewide program for certification of medication aides and medication aide training programs is created under the board of nursing.

B. For the purposes of this section, "certified medication aide" means a person who, under the supervision of a licensed nurse is permitted to administer medications according to the standards adopted by the board.

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

(1) practice as a certified medication aide; or

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

D. The board shall:

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

- (2) adopt rules for certified medication aide education and certification, including standards and curricula;
  - (3) adopt rules governing the supervision of certified medication aides by licensed nurses, including standards and performance evaluations of certified medication aides;
  - (4) conduct disciplinary hearings of certified medication aides or on the denial, suspension or revocation of a certified medication aide certificate in accordance with the Uniform Licensing Act; and
  - (5) grant approval to a certified medication aide training program that meets all requirements set by the board and deny or withdraw approval from programs that fail to meet prescribed standards or fail to maintain a current contract with the board.
- E. Every applicant for certification as a certified medication aide shall pay the required application fee, submit written evidence of having completed a board-approved program for the certification of certified medication aides and successfully complete a board-approved examination. The board shall issue a certificate to any person who fulfills the requirements for certification.
- F. Every certificate issued by the board to practice as a certified medication aide shall be renewed every two years. The certified medication aide seeking renewal shall submit proof of employment as a certified medication aide and proof of having met any continuing education requirements adopted by the board.
- G. The board shall set the following nonrefundable fees:
- (1) initial certification by examination, not to exceed sixty dollars (\$60.00);
  - (2) renewal of certification, not to exceed sixty dollars (\$60.00);
  - (3) reactivation of a lapsed certificate after failure to renew a certificate or following board action, not to exceed sixty dollars (\$60.00);
  - (4) initial review and approval of a training program not to exceed three hundred dollars (\$300);
  - (5) subsequent review and approval of a training program that has changed, not to exceed two hundred dollars (\$200);
  - (6) subsequent review and approval of a training program when a change has been required by a change in board policy or rules, not to exceed fifty dollars (\$50.00); and
  - (7) periodic evaluation of a training program, not to exceed two hundred dollars (\$200)."

### **61-3-10.3. Repealed.**

History: 1978 Comp., § 61-3-10.3, enacted by Laws 1995, ch. 117, § 1; 1997, ch. 244, § 9; repealed Laws 2005, ch. 303, § 3 and Laws 2005, ch. 307 § 10.

### **61-3-10.4. Repealed.**

History: Laws 2003, ch. 282, § 2; repealed Laws 2005, ch. 303, § 3 and Laws 2005, ch. 307 § 10.

### **61-3-10.5. Nursing excellence program; license renewal surcharge.**

A. The board may establish a "nursing excellence program" that provides strategies to enhance recruitment and retention of professional nurses, increase career and educational opportunities and improve interaction with health facilities administrations, the medical profession and institutions of higher education.

B. The board may impose a license renewal surcharge for each nursing license renewed in an amount not to exceed twenty dollars (\$20.00) to implement and maintain the nursing excellence program. The license renewal surcharge shall be deposited in the nursing excellence fund.

**History:** Laws 2003, ch. 276, § 2.

#### **61-3-10.6. Nursing excellence fund created.**

The "nursing excellence fund" is created in the state treasury to support the nursing excellence program. The fund consists of license renewal surcharges, appropriations, gifts, grants, donations and income from investment of the fund. Any income earned on investment of the fund shall remain in the fund. Money in the fund shall not revert to any other fund at the end of a fiscal year. The fund shall be administered by the board and money in the fund is appropriated to the board to carry out the purposes of the nursing excellence program. Disbursements from the fund shall be made only upon warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the chairman of the board or his authorized representative.

**History:** Laws 2003, ch. 276, § 3.

#### **61-3-11. Bonds; expenses.**

A. The executive officer and any employee of the board who handles money or who certifies the receipt or disbursement of money received by the board, shall, within thirty days after election or employment by the board, execute a bond in a penal sum to be set by the board, conditioned on the faithful performance of the duties of the office and on accounting for all funds coming into his hands. The bonds shall be signed by a surety company authorized to do business in this state and shall be in such form as to meet the approval of the board.

B. Members of the board may be reimbursed as provided in the Per Diem and Mileage Act [10-8-1 NMSA 1978], but shall receive no other compensation, perquisite or allowance.

**History:** 1953 Comp., § 67-2-8, enacted by Laws 1968, ch. 44, § 8.

#### **61-3-12. Examination; notice to applicants.**

The board shall provide for the examination of all applicants seeking licensure under the provisions of the Nursing Practice Act.

**History:** 1953 Comp., § 67-2-9, enacted by Laws 1968, ch. 44, § 9; 1975, ch. 40, § 1; 1979, ch. 379, § 4; 1993, ch. 61, § 3.

### **61-3-13. Qualifications for licensure as a registered nurse.**

Before being considered for licensure as a registered nurse, either by endorsement or examination, under Section 61-3-14 NMSA 1978, an applicant shall:

- A. furnish evidence satisfactory to the board that the applicant has successfully completed an approved program of nursing for licensure as a registered nurse and has graduated or is eligible for graduation; and
- B. at the cost to the applicant, provide the board with fingerprints and other information necessary for a state and national criminal background check.

**History:** 1953 Comp., § 67-2-10, enacted by Laws 1968, ch. 44, § 10; 1977, ch. 220, § 5; 1979, ch. 379, § 5; 1991, ch. 190, § 7; 1997, ch. 244, § 10; 2001, ch. 137, § 6.

### **61-3-14. Licensure of registered nurses.**

- A. Applicants for licensure by examination shall be required to pass the national licensing examination for registered nurses. The applicant who successfully passes the examination may be issued by the board a license to practice as a registered nurse.
- B. The board may issue a license to practice as a registered nurse without an examination to an applicant who has been duly licensed by taking the national licensing examination for registered nurses under the laws of another state if the applicant meets the qualifications required of registered nurses in this state.
- C. The board may issue a license to practice as a registered nurse to an applicant licensed under the laws of another territory or foreign country if the applicant meets the qualifications required of registered nurses in this state, is proficient in English and passes the national licensing examination for registered nurses.

**History:** 1953 Comp., § 67-2-11, enacted by Laws 1968, ch. 44, § 11; 1977, ch. 220, § 6; 1979, ch. 379, § 6; 1982, ch. 108, § 1; 1991, ch. 190, § 8.

### **61-3-15. Repealed.**

### **61-3-16. Fees for licensure as registered nurses.**

Applicants for licensure as registered nurses shall pay the following nonrefundable fees:

- A. for licensure without examination, a fee not to exceed one hundred fifty dollars (\$150);
- B. for licensure by examination when the examination is the first for the applicant in this state, a fee not to exceed one hundred fifty dollars (\$150);
- C. for licensure by examination when the examination is other than the first examination, a fee not to exceed sixty dollars (\$60.00); and
- D. for initial licensure as a certified nurse practitioner, certified registered nurse anesthetist or clinical nurse specialist, a fee not to exceed one hundred dollars (\$100). This fee shall be in addition to the fee paid for registered nurse licensure.

History: 1953 Comp., § 67-2-13, enacted by Laws 1968, ch. 44, § 13; 1977, ch. 220, § 8; 1982, ch. 108, § 2; 1991, ch. 190, § 9; 1997, ch. 244, § 11; 2005, ch. 307, § 5.

**61-3-17. Registration under previous law.**

Any person licensed as a professional or registered nurse under any prior laws of this state, whose license is valid on the effective date of the Nursing Practice Act, shall be held to be licensed as a registered nurse under the provisions of the Nursing Practice Act and shall be entitled to renewal of this license as provided in the Nursing Practice Act.

**History:** 1953 Comp., § 67-2-14, enacted by Laws 1968, ch. 44, § 14; 1977, ch. 220, § 9.

**61-3-18. Qualifications for licensure as a licensed practical nurse.**

Before being considered for licensure as a licensed practical nurse, either by endorsement or examination, under Section 61-3-19 NMSA 1978, an applicant shall:

- A. furnish evidence satisfactory to the board that the applicant has successfully completed an approved program of nursing for licensure as a licensed practical nurse or registered nurse and has graduated or is eligible for graduation; and
- B. at the cost to the applicant, provide the board with fingerprints and other information necessary for a state and national criminal background check.

**History:** 1953 Comp., § 67-2-15, enacted by Laws 1968, ch. 44, § 15; 1973, ch. 182, § 1; 1977, ch. 220, § 10; 1991, ch. 190, § 10; 1997, ch. 244, § 12; 2001, ch. 137, § 7; 2003, ch. 276, § 7.

**61-3-19. Licensure of licensed practical nurses.**

- A. Applicants for licensure by examination shall be required to pass the national licensing examination for licensed practical nurses. The applicant who successfully passes the examination may be issued by the board a license to practice as a licensed practical nurse.
- B. The board may issue a license as a licensed practical nurse without an examination to an applicant who has been duly licensed by passing the national licensing examination for licensed practical nurses under the laws of another state or by passing a state-board-constructed licensing examination prior to October 1986 if the applicant meets the qualifications required of licensed practical nurses in this state.
- C. The board may issue a license to practice as a licensed practical nurse to an applicant licensed under the laws of another territory or foreign country if the applicant meets the qualifications required of licensed practical nurses in this state, is proficient in English and successfully passes the national licensing examination for licensed practical nurses.

**History:** 1953 Comp., § 67-2-16, enacted by Laws 1968, ch. 44, § 16; 1977, ch. 220, §

11; 1979, ch. 379, § 7; 1982, ch. 108, § 3; 1991, ch. 190, § 11; 1997, ch. 244, § 13.

**61-3-20. Repealed.**

**61-3-21. Registration under previous law.**

Any person licensed as a practical nurse under any prior laws of this state whose license is valid on the effective date of the Nursing Practice Act shall be held to be licensed under the provisions of the Nursing Practice Act and shall be entitled to renewal of this license as provided in the Nursing Practice Act.

**History:** 1953 Comp., § 67-2-18, enacted by Laws 1968, ch. 44, § 18.

**61-3-22. Fees for licensure as licensed practical nurses.**

Applicants for licensure as licensed practical nurses shall pay the following nonrefundable fees:

- A. for licensure without examination, a fee not to exceed one hundred fifty dollars (\$150);
- B. for licensure by examination when the examination is the first for the applicant in this state, a fee not to exceed one hundred fifty dollars (\$150); and
- C. for licensure by examination when the examination is other than the first examination, a fee not to exceed sixty dollars (\$60.00) for each examination.

**History:** 1953 Comp., § 67-2-19, enacted by Laws 1968, ch. 44, § 19; 1977, ch. 220, § 13; 1991, ch. 190, § 12; 2005, ch. 307, § 6.

**61-3-23. Permit to practice for graduate nurses.**

- A. The board may issue a permit to practice to an applicant upon completion of an approved course of study and upon application to take the national licensing examination after graduation within the time frame set by rules of the board.
- B. The permit to practice shall be issued for practice under direct supervision at a specified place of employment in the state.
- C. The permit to practice shall be valid from issuance until the results of the national licensing examination are disseminated by the board office to the examinee, at which time the permit is void and the applicant who has passed the examination may be issued a license to practice.

**History:** 1953 Comp., § 67-2-19.1, enacted by Laws 1977, ch. 220, § 14; 1982, ch. 108, § 4; 1993, ch. 61, § 4; 2003, ch. 276, § 8.

**61-3-23.1. Permit to practice for graduate nursing specialties.**

A one-time, nonrenewable permit may be issued to graduate nurse anesthetists, nurse

practitioners and clinical nurse specialists awaiting examination and results in accordance with requirements set forth by the board in the rules and regulations.

**History:** 1978 Comp., § 61-3-23.1, enacted by Laws 1979, ch. 379, § 8; 1991, ch. 190, § 13.

**61-3-23.2. Certified nurse practitioner; qualifications; practice; examination; endorsement.**

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

- (1) is a registered nurse;
- (2) has successfully completed a program for the education and preparation of nurse practitioners; provided that if the applicant is initially licensed by the board or a board in another jurisdiction after January 1, 2001, the program shall be at the master's level or higher;
- (3) has successfully completed the national certifying examination in the applicant's specialty area; and
- (4) is certified by a national nursing organization.

B. Certified nurse practitioners may:

- (1) perform an advanced practice that is beyond the scope of practice of professional registered nursing;
- (2) practice independently and make decisions regarding health care needs of the individual, family or community and carry out health regimens, including the prescription and distribution of dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act [30-31-1 NMSA 1978]; and
- (3) serve as a primary acute, chronic long-term and end of life health care provider and as necessary collaborate with licensed medical doctors, osteopathic physicians or podiatrists.

C. Certified nurse practitioners who have fulfilled requirements for prescriptive authority may prescribe in accordance with rules, regulations, guidelines and formularies for individual certified nurse practitioners promulgated by the board.

D. Certified nurse practitioners who have fulfilled requirements for prescriptive authority may distribute to their patients dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act [30-31-1 NMSA 1978], that have been prepared, packaged or fabricated by a registered pharmacist or doses of drugs that have been prepackaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act [61-11-1 NMSA 1978] and the New Mexico Drug, Device and Cosmetic Act [26-1-1 NMSA 1978].

E. Certified nurse practitioners licensed by the board on and after December 2, 1985 shall successfully complete a national certifying examination and shall maintain national professional certification in their specialty area. Certified nurse practitioners licensed by a board prior to December 2, 1985 are not required to sit for a national certification

examination or be certified by a national organization.

**History:** 1978 Comp., § 61-3-23.2, enacted by Laws 1991, ch. 190, § 14; 1993, ch. 61, § 5; 1997, ch. 244, § 14; 2001, ch. 137, § 8.

**61-3-23.3. Certified registered nurse anesthetist; qualifications; licensure; practice; endorsement.**

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

- (1) is a registered nurse;
- (2) has successfully completed a nurse anesthesia education program accredited by the council on accreditation of nurse anesthesia education programs; provided that if the applicant is initially licensed by the board or a board in another jurisdiction after January 1, 2001, the program shall be at a master's level or higher; and
- (3) is certified by the council on certification of nurse anesthetists.

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

C. Certified registered nurse anesthetists shall function in an interdependent role as a member of a health care team in which the medical care of the patient is directed by a licensed physician, osteopathic physician, dentist or podiatrist licensed in New Mexico pursuant to Chapter 61, Article 5A, 6, 8 or 10 NMSA 1978. The certified registered nurse anesthetist shall collaborate with the licensed physician, osteopathic physician, dentist or podiatrist concerning the anesthesia care of the patient. As used in this subsection, "collaboration" means the process in which each health care provider contributes his respective expertise. Collaboration includes systematic formal planning and evaluation between the health care professionals involved in the collaborative practice arrangement.

D. A certified registered nurse anesthetist who has fulfilled the requirements for prescriptive authority in the area of anesthesia practice is authorized to prescribe and administer therapeutic measures, including dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act [30-31-1 NMSA 1978] within the emergency procedures, perioperative care or perinatal care environments. Dangerous drugs and controlled substances, pursuant to the Controlled Substances Act, that have been prepared, packaged or fabricated by a registered pharmacist or doses of drugs that have been prepackaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act [61-11-1 NMSA 1978] and the New Mexico Drug, Device and Cosmetic Act [26-1-1 NMSA 1978] may be prescribed and administered.

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

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

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

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

**History:** 1978 Comp., § 61-3-23.3, enacted by Laws 1991, ch. 190, § 15; 1997, ch. 244, § 15; 2001, ch. 137, § 9.

**61-3-23.4. Clinical nurse specialist; qualifications; endorsement.**

A. The board may license for advanced practice as a clinical nurse specialist an applicant who furnishes evidence satisfactory to the board that the applicant:

- (1) is a registered nurse;
- (2) has a master's degree or doctoral degree in a defined clinical nursing specialty;
- (3) has successfully completed a national certifying examination in the applicant's area of specialty; and
- (4) is certified by a national nursing organization.

B. Clinical nurse specialists may:

- (1) perform an advanced practice that is beyond the scope of practice of professional registered nursing;
- (2) make independent decisions in a specialized area of nursing practice using expert knowledge regarding the health care needs of the individual, family and community, collaborating as necessary with other members of the health care team when the health care need is beyond the scope of practice of the clinical nurse specialist; and
- (3) carry out therapeutic regimens in the area of specialty practice, including the prescription and distribution of dangerous drugs.

C. A clinical nurse specialist who has fulfilled the requirements for prescriptive authority in the area of specialty practice is authorized to prescribe, administer and distribute therapeutic measures, including dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act [30-31-7 to 30-31-10 NMSA 1978] within the scope of specialty practice, including controlled substances pursuant to the Controlled Substances Act [30-31-1 NMSA 1978] that have been prepared, packaged or fabricated by a registered pharmacist or doses of drugs that have been prepackaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act [61-11-1 NMSA 1978] and the New Mexico Drug, Device and Cosmetic Act [26-1-1 NMSA 1978].

D. Clinical nurse specialists who have fulfilled the requirements for prescriptive

authority in the area of specialty practice may prescribe in accordance with rules, regulations, guidelines and formularies based on scope of practice and clinical setting for individual clinical nurse specialists promulgated by the board.

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

**History:** 1978 Comp., § 61-3-23.4, enacted by Laws 1991, ch. 190, § 16; 1997, ch. 244, § 16.

### **61-3-24. Renewal of licenses.**

A. Any person licensed pursuant to the provisions of the Nursing Practice Act who intends to continue practice shall renew the license every two years by the end of the applicant's renewal month and shall show proof of continuing education as required by the board except when on active military duty during a military action.

B. Upon receipt of the application and fee, in an amount not to exceed one hundred ten dollars (\$110), a license valid for two years shall be issued.

C. Upon receipt of the application and fee, the board shall verify the licensee's eligibility for continued licensure and issue to the applicant a renewal license for two years.

D. A person who allows a license to lapse shall be reinstated by the board on payment of the fee for the current two years plus a reinstatement fee not to exceed two hundred dollars (\$200), provided that all other requirements are met.

History: 1953 Comp., § 67-2-20, enacted by Laws 1968, ch. 44, § 20; 1977, ch. 220, § 15; 1979, ch. 379, § 9; 1982, ch. 108, § 5; 1985, ch. 67, § 5; 1991, ch. 190, § 17; 1997, ch. 244, § 17; 2001, ch. 137, § 10; 2003, ch. 276, § 9; 2005, ch. 307, § 7.

### **61-3-24.1. Compact entered into.**

The Nurse Licensure Compact is entered into law and entered into with all other jurisdictions legally joining therein in a form substantially as follows:

#### **"NURSE LICENSURE COMPACT**

#### **ARTICLE 1 - Findings and Purpose**

A. The party states find that:

(1) the health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;

(2) violation of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;

(3) the expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;

(4) new practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex; and

(5) the current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant to both nurses and states.

B. The general purposes of this compact are to:

(1) facilitate the states' responsibility to protect the public's health and safety;

(2) ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;

(3) facilitate the exchange of information between party states in the areas of nurse regulation, investigation and adverse actions;

(4) promote compliance with the laws governing the practice of nursing in each jurisdiction; and

(5) invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses.

## ARTICLE 2 - Definitions

As used in the Nurse Licensure Compact:

A. "adverse action" means a home or remote state action;

B. "alternative program" means a voluntary, non-disciplinary monitoring program approved by a licensing board;

C. "coordinated licensure information system" means an integrated process for collecting, storing and sharing information on nurse licensure and enforcement activities related to nurse licensure laws, which is administered by a nonprofit organization composed of and controlled by state licensing boards;

D. "current significant investigative information" means:

(1) investigative information that a licensing board, after a preliminary inquiry that includes notification and opportunity for the nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(2) investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond;

E. "home state" means the party state that is the nurse's primary state of residence;

F. "home state action" means an administrative, civil, equitable or criminal action permitted by the home state's laws that are imposed on a nurse by the home state's

licensing board or other authority, including actions against an individual's license such as: revocation, suspension, probation or any other action that affects a nurse's authorization to practice;

G. "licensing board" means a party state's regulatory body responsible for issuing nurse licenses;

H. "multistate licensure privilege" means current, official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical or vocational nurse in such party state. All party states have the authority, in accordance with existing state due process law, to take actions against the nurse's privilege such as: revocation, suspension, probation or any other action which affects a nurse's authorization to practice;

I. "nurse" means a registered nurse or licensed practical or vocational nurse, as those terms are defined by each party state's practice laws;

J. "party state" means a state that has adopted the Nurse Licensure Compact;

K. "remote state" means a party state, other than the home state:

(1) where the patient is located at the time nursing care is provided; or

(2) in the case of the practice of nursing not involving a patient, in such party state where the recipient of nursing practice is located;

L. "remote state action" means:

(1) an administrative, civil, equitable or criminal action permitted by a remote state's laws that are imposed on a nurse by the remote state's licensing board or other authority, including actions against a nurse's multistate licensure privilege to practice in the remote state; and

(2) cease and desist orders and other injunctive or equitable orders issued by remote states or the licensing boards thereof;

M. "state" means a state, territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico; and

N. "state practice laws" means an individual party state's laws and regulations that govern the practice of nursing, define the scope of nursing practice and create the methods and grounds for imposing discipline. "State practice laws" does not include the initial qualifications for licensure or requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

### ARTICLE 3 - General Provisions and Jurisdiction

A. A license to practice registered nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in such party state. A license to practice licensed practical or vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a licensed practical or vocational nurse in such party state. In order to obtain or retain a license, an applicant must meet the home state's qualifications

for licensure and license renewal as well as all other applicable state laws.

B. A party state may, in accordance with state due process laws, limit or revoke a multistate licensure privilege of any nurse to practice in the state and may take any other action under applicable state laws necessary to protect the health and safety of state citizens. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

C. A nurse practicing in a party state must comply with the state practice laws of the state in which the patient is located at the time care is rendered. In addition, the practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of the party state. The practice of nursing will subject a nurse to the jurisdiction of the nurse licensing board and the courts, as well as the laws, in that party state.

D. The Nurse Licensure Compact does not affect additional requirements imposed by a party state for advanced practice registered nursing. However, a multistate licensure privilege to practice registered nursing granted by a party state shall be recognized by other party states as a license to practice registered nursing if one is required by state law as a precondition for qualifying for advanced practice registered nurse authorization.

E. Individuals not residing in a party state shall continue to be able to apply for nurse licensure as provided for under the laws of each party state. However, the license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.

#### ARTICLE 4 - Application for Licensure in a Party State

A. Upon application for a license, the licensing board in a party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any restrictions on the multistate licensure privilege and whether any other adverse action by any state has been taken against the license.

B. A nurse in a party state shall hold licensure in only one party state at a time, issued by the home state.

C. A nurse who intends to change primary state of residence may apply for licensure in the new home state in advance of such change. However, new licenses will not be issued by a party state until after the nurse provides evidence of change in primary state of residence satisfactory to the new home state's licensing board.

D. When a nurse changes primary state of residence by:

- (1) moving from one party state to another party state, and obtains a license from the new home state, the license from the former home state is no longer valid;
- (2) moving from a nonparty state to a party state, and obtains a license from the new home state, the individual state license issued by the nonparty state is not

affected and will remain in full force if so provided by the laws of the nonparty state; or

(3) moving from a party state to a nonparty state, the license issued by the prior home state converts to an individual state license, valid only in the former home state, without the multistate licensing privilege to practice in other party states.

#### ARTICLE 5 - Adverse Actions

In addition to the general provisions described in Article 3 of the Nurse Licensure Compact, the following provisions apply.

A. The licensing board of a remote state shall promptly report to the administrator of the coordinated licensure information system any remote state actions, including the factual and legal basis for such action, if known. The licensing board of a remote state shall also promptly report any significant current investigative information yet to result in a remote state action. The administrator of the coordinated licensure information system shall promptly notify the home state of any such reports.

B. The licensing board of a party state shall have the authority to complete any pending investigations for a nurse who changes primary state of residence during the course of such investigations. It shall also have the authority to take appropriate actions, and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.

C. A remote state may take adverse action affecting the multistate licensure privilege to practice within that party state. However, only the home state has the power to impose adverse action against the license issued by the home state.

D. For purposes of imposing adverse action, the licensing board of the home state shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, it shall apply its own state laws to determine appropriate action.

E. The home state may take adverse action based on the factual findings of the remote state, so long as each state follows its own procedures for imposing such adverse action.

F. Nothing in the Nurse Licensure Compact shall override a party state's decision that participation in an alternative program may be used in lieu of licensure action and that such participation shall remain nonpublic if required by the party state's laws. Party states must require nurses who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from such other party state.

#### ARTICLE 6 - Additional Authorities Invested in Party State Licensing Boards

Notwithstanding any other powers, a party state licensing board shall have authority to:

A. if otherwise permitted by state law, recover from the affected nurse the

costs of investigations and disposition of cases resulting from any adverse action taken against that nurse;

B. issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses or evidence is located;

C. issue cease and desist orders to limit or revoke a nurse's authority to practice in the state; and

D. promulgate uniform rules and regulations as provided for in Article 8 of the Nurse Licensure Compact.

#### ARTICLE 7 - Coordinated Licensure Information System

A. All party states shall participate in a cooperative effort to create a coordinated database of all licensed registered nurses and licensed practical or vocational nurses. This system will include information on the licensure and disciplinary history of each nurse as contributed by party states, to assist in the coordination of nurse licensure and enforcement efforts.

B. Notwithstanding any other provision of law, all party state licensing boards shall promptly report adverse actions, actions against multistate licensure privileges, any current significant investigative information yet to result in adverse action and denials of applications and the reasons for such denials to the coordinated licensure information system.

C. Current significant investigative information shall be transmitted through the coordinated licensure information system only to party state licensing boards.

D. Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing party state.

E. Any personally identifiable information obtained by a party state licensing board from the coordinated licensure information system may not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

F. Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing the information shall also be expunged from the coordinated licensure information system.

G. The compact administrators, acting jointly with each other and in consultation with the administrator of the coordinated licensure information system, shall

formulate necessary and proper procedures for the identification, collection and exchange of information under the Nurse Licensure Compact.

#### ARTICLE 8 - Compact Administration and Interchange of Information

A. The executive head of the licensing board, or the executive head's designee, of a party state shall be the administrator of the Nurse Licensure Compact for the state.

B. The compact administrator of each party state shall furnish to the compact administrator of every other party state any information and documents, including but not limited to a uniform data set of investigations, identifying information, licensure data and disclosable alternative program participation information to facilitate the administration of the Nurse Licensure Compact.

C. Compact administrators shall have the authority to develop uniform rules to facilitate and coordinate implementation of the Nurse Licensure Compact. These uniform rules shall be adopted by party states, under the authority invested under Subsection D of Article 6 of the Nurse Licensure Compact.

#### ARTICLE 9 - Immunity

A party state or the officers or employees or agents of a party state licensing board who act in accordance with the provisions of the Nurse Licensure Compact shall not be liable on account of any act or omission in good faith while engaged in the performance of their duties under that compact. "Good faith" as used in this article does not include willful misconduct, gross negligence or recklessness.

#### ARTICLE 10 - Entry into Force, Withdrawal and Amendment

A. The Nurse Licensure Compact shall enter into force and become effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from that compact by enacting a statute repealing the same, but such withdrawal shall not take effect until six months after the withdrawing state has given notice of the withdrawal to the executive heads of all other party states.

B. No withdrawal shall affect the validity or applicability by the licensing boards of states remaining party to the Nurse Licensure Compact of any report of adverse action occurring prior to the withdrawal.

C. Nothing contained in the Nurse Licensure Compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with the other provisions of that compact.

D. The Nurse Licensure Compact may be amended by the party states. No amendment to that compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

## ARTICLE 11 - Construction and Severability

A. The Nurse Licensure Compact shall be liberally construed to effectuate the purposes of that compact. The provisions of that compact shall be severable and if any phrase, clause, sentence or provision of that compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of that compact and the applicability of that compact to any government, agency, person or circumstance shall not be affected. If that compact is held contrary to the constitution of any party state, that compact, shall remain in full force and effect as to the remaining party states and in full force and effect as to the party states affected as to all severable matters.

B. In the event party states find a need for settling disputes arising under the Nurse Licensure Compact:

(1) the party states may submit the issues in dispute to an arbitration panel that will be comprised of an individual appointed by the compact administrator in the home state; an individual appointed by the compact administrator in a remote state involved; and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute; and

(2) the decision of a majority of the arbitrators shall be final and binding."

**History:** Laws 2003, ch. 307, § 1.

### **61-3-24.2. Nurse licensure compact administrator; duties.**

The Nurse Licensure Compact administrator shall be the executive director of the board or his designee and shall:

A. develop rules and make recommendations to the board concerning the administration of the Nurse Licensure Compact [61-3-24.1 NMSA 1978], including procedures for reporting an adverse disciplinary action taken by the board against a nurse practicing pursuant to a multistate licensure privilege;

B. work with Nurse Licensure Compact administrators from other party states to communicate, provide and exchange information pertinent to the administration of the Nurse Licensure Compact; and

C. provide pertinent information to the administrator of the coordinated licensure information system and compile, for the board's use, information received from that administrator pursuant to the Nurse Licensure Compact.

**History:** Laws 2003, ch. 307, § 2.

### **61-3-24.3. Repealed.**

History: Laws 2003, ch. 307, § 3; repealed Laws 2005, ch. 307, § 10.

**61-3-25. Repealed.**

**61-3-26. Schools of nursing; standards; approval.**

A. An institution desiring to conduct a nursing education program to prepare registered or licensed practical nurses shall apply to the board for approval and submit evidence that:

(1) it is prepared to carry out a program in professional nursing education or a program in licensed practical nursing education, as the case may be; and

(2) it is prepared to meet such standards as are established by the board.

B. A survey of the institution with which the school is to be affiliated shall be made by a member of the board or an authorized employee of the board who shall submit a written report of the survey to the board. If, in the opinion of the board, the requirements for approval are met, a certificate of approval shall be issued.

C. From time to time, as deemed necessary by the board, it is the duty of the board, through a board member or an authorized employee, to survey all schools of nursing in this state.

D. For the purpose of evaluating the educational qualifications for licensure of a candidate as either a registered or licensed practical nurse under Subsection B of either Section 61-3-13 or 61-3-18 NMSA 1978, the board shall set standards comparable to the minimum standards applicable in this state for recognition of schools of nursing in other jurisdictions.

**History:** 1953 Comp., § 67-2-22, enacted by Laws 1968, ch. 44, § 22; 1977, ch. 220, § 16; 1991, ch. 190, § 18.

**61-3-27. Fund established; disposition; method of payment.**

A. There is created a "board of nursing fund".

B. Except as provided in Sections 2 and 3 [61-3-10.5 and 61-3-10.6 NMSA 1978] of this 2003 act [61-3-10.5 and 61-3-10.6 NMSA 1978], all funds received by the board and money collected under the Nursing Practice Act shall be deposited with the state treasurer. The state treasurer shall place the money to the credit of the board of nursing fund. Any income earned on investment of the fund shall remain in the fund.

C. Payments out of the board of nursing fund shall be on vouchers issued and signed by the person designated by the board upon warrants drawn by the department of finance and administration in accordance with the budget approved by the department.

D. All amounts paid into the board of nursing fund shall be subject to the order of the board and shall only be used for the purpose of meeting necessary expenses incurred in the enforcement of the purposes of the Nursing Practice Act, the duties imposed by that act and the promotion of nursing education and standards in this state. All money unused at the end of the fiscal year shall remain in the board of nursing fund for use in accordance with the provisions of the Nursing Practice Act to further the purposes of that act.

E. All funds that may have accumulated to the credit of the board under any previous act shall be continued for use by the board in administration of the Nursing Practice Act.

**History:** 1953 Comp., § 67-2-23, enacted by Laws 1968, ch. 44, § 23; 1977, ch. 220, § 17; 1991, ch. 190, § 19; 2003, ch. 276, § 10.

**61-3-27.1. Board of nursing fund; authorized use.**

Pursuant to Subsection D of Section 61-3-27 NMSA 1978, the board shall authorize expenditures from unexpended and unencumbered cash balances in the board of nursing fund to support an information technology project manager to develop, implement and maintain a web site portal for licensure and a central database for credentialing of health care providers.

**History:** 1978 Comp., § 61-3-27.1, enacted by Laws 2003, ch. 235, § 5.

**61-3-28. Disciplinary proceedings; judicial review; application of uniform licensing act; limitation.**

A. In accordance with the procedures contained in the Uniform Licensing Act [61-1-1 NMSA 1978], the board may deny, revoke or suspend any license held or applied for under the Nursing Practice Act, reprimand or place a licensee on probation or deny, limit or revoke the multistate licensure privilege of a nurse desiring to practice or practicing professional registered nursing or licensed practical nursing as provided in the Nurse Licensure Compact [61-3-24.1 NMSA 1978] upon grounds that the licensee, applicant or nurse:

- (1) is guilty of fraud or deceit in procuring or attempting to procure a license or certificate of registration;
- (2) is convicted of a felony;
- (3) is unfit or incompetent;
- (4) is intemperate or is addicted to the use of habit-forming drugs;
- (5) is mentally incompetent;
- (6) is guilty of unprofessional conduct as defined by the rules and regulations adopted by the board pursuant to the Nursing Practice Act;
- (7) has willfully or repeatedly violated any provisions of the Nursing Practice Act, including any rule or regulation adopted by the board pursuant to that act; or
- (8) was licensed to practice nursing in any jurisdiction, territory or possession of the United States or another country and was the subject of disciplinary action as a licensee for acts similar to acts described in this subsection. A certified copy of the record of the jurisdiction, territory or possession of the United States or another country taking the disciplinary action is conclusive evidence of the action.

B. Disciplinary proceedings may be instituted by any person, shall be by complaint and shall conform with the provisions of the Uniform Licensing Act [61-1-1 NMSA 1978]. Any party to the hearing may obtain a copy of the hearing record upon payment of

costs for the copy.

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

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

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

F. The board may recover the costs associated with the investigation and disposition of a disciplinary proceeding from the nurse who is the subject of the proceeding if the nurse is practicing professional registered nursing or licensed practical nursing pursuant to a multistate licensure privilege as provided in the Nurse Licensure Compact.

**History:** 1953 Comp., § 67-2-24, enacted by Laws 1968, ch. 44, § 24; 1977, ch. 220, § 18; 1982, ch. 108, § 6; 1985, ch. 67, § 6; 1991, ch. 253, § 1; 1993, ch. 61, § 6; 2001, ch. 137, § 11; 2003, ch. 307, § 8.

### **61-3-29. Exceptions.**

The Nursing Practice Act shall not apply to or affect:

- A. gratuitous nursing by friends or members of the family;
- B. nursing assistance in case of emergencies;
- C. nursing by students when enrolled in approved schools of nursing or approved courses for the education of professional or practical nurses when such nursing is part of the educational program;
- D. nursing in this state by a nurse licensed in another state whose employment requires the nurse to transport a patient or who is a camp nurse who accompanies and cares for a patient temporarily residing in this state if the nurse's practice in this state does not exceed three months and the nurse does not claim to be licensed in this state;
- E. nursing in this state by a person employed by the United States government, while in the discharge of the person's official duties;
- F. the practice of midwifery by a person other than a registered nurse who is certified or licensed in this state to practice midwifery;
- G. a person working as a home health aide, unless performing acts defined as professional nursing or practical nursing pursuant to the Nursing Practice Act;
- H. a nursing aide or orderly, unless performing acts defined as professional nursing or practical nursing pursuant to the Nursing Practice Act;
- I. a registered nurse holding a current license in another jurisdiction who is enrolled in a professional course requiring nursing practice as a part of the educational program; or

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

History: 1953 Comp., § 67-2-25, enacted by Laws 1968, ch. 44, § 25; 1977, ch. 220, § 19; 1985, ch. 67, § 7; 1990, ch. 112, § 1; 1991, ch. 190, § 20; 1991, ch. 209, § 2; 1995, ch. 117, § 2; 1997, ch. 244, § 18; 2003, ch. 276, § 11; 2005, ch. 303, § 2; 2005, ch. 307, § 8.

**61-3-29.1. Diversion program created; advisory committee; renewal fee; requirements; immunity from civil actions.**

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

B. The board shall appoint one or more evaluation committees, hereinafter called "regional advisory committees", each of which shall be composed of members with expertise in chemical dependency. At least one member shall be a registered nurse. No current member of the board shall be appointed to a regional advisory committee. The executive officer of the board or his designee shall be the liaison between each regional advisory committee and the board.

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

- (1) establish criteria for continuance in the program;
- (2) develop a written diversion program contract to be approved by the board that sets forth the requirements that shall be met by the nurse and the conditions under which the diversion program may be successfully completed or terminated;
- (3) recommend to the board in favor of or against each nurse's discharge from the diversion program;
- (4) evaluate each nurse's progress in recovery and compliance with his diversion program contract;
- (5) report violations to the board;
- (6) submit an annual report to the board; and
- (7) coordinate educational programs and research related to chemically dependent nurses.

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

program.

E. Files of nurses in the diversion program shall be maintained in the board office and shall be confidential except when used to make a report to the board concerning a nurse who is not cooperating and complying with the diversion program contract or, with written consent of a nurse, when used for research purposes as long as the nurse is not specifically identified. However, such files shall be subject to discovery or subpoena. The confidential provisions of this subsection are of no effect if the nurse admitted to the diversion program leaves the state prior to the completion of the program.

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

G. Any person admitted to the diversion program for chemically dependent nurses who fails to comply with the provisions of this section or with the rules and regulations adopted by the board pursuant to this section or with the written diversion program contract or with any amendments to the written diversion program contract may be subject to disciplinary action in accordance with Section 61-3-28 NMSA 1978.

**History:** 1978 Comp., § 61-3-29.1, enacted by Laws 1987, ch. 285, § 1; 1991, ch. 190, § 21; 1991, ch. 253, § 2; 1997, ch. 244, § 19; 2001, ch. 137, § 12.

### **61-3-30. Violations; penalties.**

It is a misdemeanor for a person, firm, association or corporation to:

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

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

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

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

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

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

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

H. practice or employ a person to practice as a certified registered nurse

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

I. employ as a certified hemodialysis technician or certified medication aide an unlicensed person without a certificate from the board to practice as a certified hemodialysis technician or certified medication aide; or

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

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

History: 1953 Comp., § 67-2-26, enacted by Laws 1968, ch. 44, § 26; 1977, ch. 220, § 20; 1985, ch. 67, § 8; 1991, ch. 190, § 22; 2001, ch. 137, § 13; 2005, ch. 307, § 9.

**61-3-31. Repealed.**

History: 1978 Comp., § 61-3-31, enacted by Laws 1979, ch. 379, § 11; 1981, ch. 241, § 17; 1985, ch. 67, § 9; 1985, ch. 87, § 2; 1991, ch. 189, § 4; 1991, ch. 190, § 23; 1997, ch. 46, § 3; 2003, ch. 428, § 2; repealed Laws 2005, ch. 307, § 10.