

MEDICAL PRACTICE ACT
SECTIONS 61-6-1 THROUGH 61-6-35 NMSA 1978
ARTICLE 6A and 6B

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**Italicized sections relate to the practice of physician assistants*

***Bolded sections relate to the practice of:**
anesthesiologist assistants
genetic counselors
polysomnography technologist

West's New Mexico Statutes Annotated Currentness

Chapter 61. Professional and Occupational Licenses (Refs & Annos)

Article 6. Medicine and Surgery (Refs & Annos)

→ § 61-6-1. **Short title; purpose**

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

B. In the interest of the public health, safety and welfare and to protect the public from the improper, unprofessional, incompetent and unlawful practice of medicine, it is necessary to provide laws and rules controlling the granting and use of the privilege to practice medicine and to establish a medical board to implement and enforce the laws and rules.

C. The primary duties and obligations of the medical board are to issue licenses to qualified physicians, physician assistants and anesthesiologist assistants, to discipline incompetent or unprofessional physicians, physician assistants or anesthesiologist assistants and to aid in the rehabilitation of impaired physicians, physician assistants and anesthesiologist assistants for the purpose of protecting the public.

§ 61-6-2. New Mexico medical board; appointment; terms; qualifications

A. There is created the "New Mexico medical board", consisting of nine members. The board shall be composed of two public members, one physician assistant and six reputable physicians of known ability who are graduates of medical colleges or schools in good standing and who have been licensed physicians in and bona fide residents of New Mexico for a period of five years immediately preceding the date of their appointment. The physician assistant shall have been a licensed physician assistant and a resident of New Mexico for at least five years immediately preceding the date of appointment. Public members of the board shall be residents of New Mexico, shall not have been licensed by the board or have practiced as physicians and shall have no significant financial interest, direct or indirect, in the occupation regulated.

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

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

D. Members shall be appointed to four-year terms, staggered so that not more than three terms expire in a year. All board members shall hold office until their successors are appointed and qualified.

E. A board member failing to attend three consecutive meetings, either regular or special, shall automatically be removed as a member of the board unless excused from attendance by the board for good cause shown.

§ 61-6-3. Meetings of the board; quorum

A. The board shall hold four regular meetings every fiscal year.

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

C. In addition to the regular meetings, the board may hold special meetings at the call of the president after written notice to all members of the board or at the written or electronic request of any two members.

D. A majority of the members of the board shall constitute a quorum and shall be capable of conducting any board business. The vote of a majority of a quorum shall prevail, even though the vote may not represent an actual majority of all the board members.

§ 61-6-4. Election; duties of officers; reimbursement of board members

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

B. The chair shall preside over the meetings and affairs of the board.

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

D. The secretary-treasurer shall:

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

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

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

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

(5) perform any other functions assigned by the board or by the chair.

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

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

G. Board members or agents performing interviews of applicants may be compensated at the board's discretion.

§ 61-6-5. Duties and powers

<Text of section effective July 1, 2009>

The board shall:

A. enforce and administer the provisions of the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act, the Genetic Counseling Act and the Impaired Health Care Provider Act;

B. adopt, publish and file, in accordance with the Uniform Licensing Act and the State Rules Act, all rules for the implementation and enforcement of the provisions of the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act, the Genetic Counseling Act and the Impaired Health Care Provider Act;

C. adopt and use a seal;

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

E. take testimony on matters within the board's jurisdiction;

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

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

H. grant, deny, review, suspend and revoke licenses to practice medicine and censure, reprimand, fine and place on probation and stipulation licensees and applicants in accordance with the Uniform Licensing Act for any cause stated in the Medical Practice Act and the Impaired Health Care Provider Act;

I. hire staff and administrators as necessary to carry out the provisions of the Medical Practice Act;

J. have the authority to hire or contract with investigators to investigate possible violations of the Medical Practice Act;

K. have the authority to hire a competent attorney to give advice and counsel in regard to any matter connected with the duties of the board, to represent the board in any legal proceedings and to aid in the enforcement of the laws in relation to the medical profession and to fix the compensation to be paid to such attorney; provided, however, that such attorney shall be compensated from the funds of the board;

L. establish continuing medical education requirements for licensed physicians and continuing education requirements for physician assistants;

M. establish committees as it deems necessary for carrying on its business;

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

O. establish and maintain rules related to the management of pain based on review of national standards for pain management.

§ 61-6-6. Definitions

As used in Chapter 61, Article 6 NMSA 1978:

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

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

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

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

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

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

G. "physician assistant" means a health professional who is licensed by the board to practice as a physician assis-

tant and who provides services to patients under the supervision and direction of a licensed physician;

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

I. "resident" means a graduate of a medical college or school in good standing who is in training in a board-approved and accredited residency training program in a hospital or facility affiliated with an approved hospital and who has been appointed to the position of "resident" or "fellow" for the purpose of postgraduate medical training;

J. "the practice of medicine" consists of:

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 61-6-7. Short title; licensure as a physician assistant; scope of practice; biennial registration of supervision; license renewal; fees

- A. Sections 61-6-7 through 61-6-10 NMSA 1978 may be cited as the “Physician Assistant Act”.
- B. The board may license as a physician assistant a qualified person who has graduated from a physician assistant or surgeon assistant program accredited by the national accrediting body as established by rule and has passed a physician assistant national certifying examination as established by rule. The board may also license as a physician assistant a person who passed the physician assistant national certifying examination administered by the national commission on certification of physician assistants prior to 1986.
- C. A person shall not perform, attempt to perform or hold himself out as a physician assistant without first applying for and obtaining a license from the board and without registering his supervising licensed physician in accordance with board rules.
- D. Physician assistants may prescribe, administer and distribute dangerous drugs other than controlled substances in Schedule I of the Controlled Substances Act pursuant to rules adopted by the board after consultation with the board of pharmacy if the prescribing, administering and distributing are done under the direction of a supervising licensed physician and within the parameters of a board-approved formulary and guidelines established under Subsection C of Section 61-6-9 NMSA 1978. The distribution process shall comply with state laws concerning prescription packaging, labeling and record keeping requirements. Physician assistants shall not otherwise dispense dangerous drugs or controlled substances.
- E. A physician assistant shall perform only the acts and duties assigned to the physician assistant by a supervising licensed physician that are within the scope of practice of the supervising licensed physician.
- F. An applicant for licensure as a physician assistant shall complete application forms supplied by the board and shall pay a licensing fee as provided in Section 61-6-19 NMSA 1978.
- G. A physician assistant shall biennially submit proof of current certification by the national commission on certification of physician assistants and shall renew the license and registration of supervision of the physician assistant with the board. Applications for licensure or registration of supervision shall include the applicant's name, current address, the name and office address of the supervising licensed physician and other additional information as the board deems necessary.
- H. Before starting work, a physician assistant shall ensure that the supervising licensed physician of the physician assistant is registered by the board. The license of a physician assistant shall only be valid when the physician assistant works under the supervision of a board-registered licensed physician.
- I. Each biennial renewal of licensure shall be accompanied by a fee as provided in Section 61-6-19 NMSA 1978.

§ 61-6-7.1. Definitions

As used in the Physician Assistant Act:

- A. “administer” means to apply a prepackaged drug directly to the body of a patient by any means;
- B. “dispense” means to deliver a drug directly to a patient and includes the compounding, labeling and repackaging of a drug from a bulk or original container;
- C. “distribute” means to administer or supply directly to a patient under the direct care of the distributing physician assistant one or more doses of drugs prepackaged by a licensed pharmacist and excludes the compounding or repackaging from a bulk or original container; and

D. "prescribe" means to issue an order individually for the person for whom prescribed, either directly from the prescriber to the pharmacist or indirectly by means of a written order signed by the prescriber, bearing the name and address of the prescriber, his license classification, the name and address of the patient, the name of the drug prescribed, directions for use and the date of issue.

§ 61-6-7.2. Inactive license

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

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

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

D. A physician assistant requesting restoration from inactive status shall pay the current renewal fee and fulfill the requirement for renewal pursuant to the Physician Assistant Act.

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

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

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

§ 61-6-7.3. Exemption from licensure

A. A physician assistant student enrolled in a physician assistant or surgeon assistant educational program accredited by the committee on allied health education and accreditation or by its successor shall be exempt from licensure while functioning as a physician assistant student.

B. A physician assistant employed by the federal government while performing duties incident to that employment is not required to be licensed as a physician assistant.

§§ 61-6-8, 61-6-8.1. Repealed by L. 2003, Ch. 19, § 29

§ 61-6-9. Physician assistants; rules

The board may adopt and enforce reasonable rules for:

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

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

C. establishing when and for how long physician assistants are permitted to prescribe, administer and distribute dangerous drugs other than controlled substances in Schedule I of the Controlled Substances Act pursuant to rules

adopted by the board after consultation with the board of pharmacy;

D. allowing a supervising licensed physician to temporarily delegate supervisory responsibilities for a physician assistant to another licensed physician;

E. allowing a physician assistant to temporarily serve under the supervision of a licensed physician other than the supervising licensed physician of record; and

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

§ 61-6-10. Supervising licensed physician; responsibility

A. As a condition of licensure, all physician assistants practicing in New Mexico shall inform the board of the name of the licensed physician under whose supervision they will practice. All supervising physicians shall be licensed under the Medical Practice Act and shall be approved by the board.

B. Every licensed physician supervising a licensed physician assistant shall be individually responsible and liable for the performance of the acts and omissions delegated to the physician assistant. Nothing in this section shall be construed to relieve the physician assistant of responsibility and liability for the acts and omissions of the physician assistant.

C. A physician assistant shall be supervised by a physician as approved by the board.

§ 61-6-10.1. Short title

This act may be cited as the "Anesthesiologist Assistants Act".

§ 61-6-10.2. Definitions

As used in the Anesthesiologist Assistants Act:

A. "anesthesiologist" means a physician licensed to practice medicine in New Mexico who has successfully completed an accredited anesthesiology graduate medical education program, who is board certified by the American board of anesthesiology or board eligible, who has completed a residency in anesthesiology within the last three years or who has foreign certification determined by the board to be the substantial equivalent and who is an employee of the department of anesthesiology of a medical school in New Mexico;

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

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

D. "board" means the New Mexico board of medical examiners; and

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

§ 61-6-10.3. Licensure; registration; anesthesiologist assistant; scope of authority

A. The board may license qualified persons as anesthesiologist assistants.

B. A person shall not perform, attempt to perform or hold himself out as an anesthesiologist assistant until he is licensed by the board as an anesthesiologist assistant and has registered his supervising licensed anesthesiologist in accordance with board regulations.

C. An anesthesiologist assistant may assist the supervising anesthesiologist in developing and implementing an anesthesia care plan for a patient. In providing assistance to the supervising anesthesiologist, an anesthesiologist assistant may do any of the following:

- (1) obtain a comprehensive patient history and perform a physical exam and present the history and exam findings to the supervising anesthesiologist who must conduct a pre-anesthetic interview and evaluation;
- (2) pretest and calibrate anesthesia delivery systems;
- (3) monitor, obtain and interpret information from anesthesia delivery systems and anesthesia monitoring equipment;
- (4) assist the supervising anesthesiologist with the implementation of medically accepted monitoring techniques;
- (5) establish basic and advanced airway interventions, including intubation of the trachea and performing ventilatory support;
- (6) administer intermittent vasoactive drugs;
- (7) start and adjust vasoactive infusions;
- (8) administer anesthetic drugs, adjuvant drugs and accessory drugs;
- (9) assist the supervising anesthesiologist with the performance of epidural anesthetic procedures and spinal anesthetic procedures;
- (10) administer blood, blood products and supportive fluids;
- (11) participate in administrative activities and clinical teaching activities;
- (12) participate in research activities by performing the same procedures that may be performed under Paragraphs (1) through (10) of this subsection; and
- (13) provide assistance to cardiopulmonary resuscitation teams in response to life-threatening situations.

D. An applicant shall complete an application form provided by the board and shall submit the completed form with the application fee to the board.

§ 61-6-10.4. Annual registration of employment; employment change

A. Upon becoming licensed, the board shall register the anesthesiologist assistant on the anesthesiologist assistants' roster, including his name, address and other board-required information and the anesthesiologist assistant's supervising anesthesiologist's name and address.

B. Annually, each anesthesiologist assistant shall register with the board, providing the anesthesiologist assistant's current name and address, the name and address of the supervising anesthesiologist for whom he is working and any additional information required by the board. Failure to register annually will result in the anesthesiologist assistant being required to pay a late fee or having his license placed on inactive status.

C. Every two years, each licensed anesthesiologist assistant in the state shall submit proof of completion of board-required continuing education to the board.

D. The registration of an anesthesiologist assistant shall be void upon changing his supervising anesthesiologist, until the anesthesiologist assistant registers a new supervising anesthesiologist with the board, accompanied by a change in supervision fee, in an amount to be determined by the board.

§ 61-6-10.5. Fees

The following fees shall be submitted as appropriate to the board:

A. an application fee, not to exceed one hundred fifty dollars (\$150);

B. a license renewal fee, not to exceed one hundred dollars (\$100) paid once every two years upon application for renewal of an anesthesiologist assistant's license;

C. a late fee not to exceed twenty-five dollars (\$25.00), if the anesthesiologist assistant fails to renew his license by July 1 of his renewal year; and

D. a change in supervision fee, not to exceed fifty dollars (\$50.00), but in no case shall the change in supervision fee exceed one-half of the license renewal fee.

§ 61-6-10.6. Inactive license

A. An anesthesiologist assistant who notifies the board in writing on forms prescribed by the board may elect to place his license on inactive status. An anesthesiologist assistant with an inactive license shall be excused from payment of renewal fees and shall not practice as an anesthesiologist assistant.

B. An anesthesiologist assistant who engages in practice while his license is lapsed or on inactive status is practicing without a license and is subject to disciplinary action pursuant to the Anesthesiologist Assistants Act.

C. An anesthesiologist assistant requesting restoration from inactive status shall pay the current renewal fee and fulfill the requirement for renewal pursuant to the Anesthesiologist Assistants Act.

§ 61-6-10.7. Exemption from licensure

A. An anesthesiologist assistant student enrolled in an anesthesiologist assistant educational program accredited by the commission on accreditation of the allied health education programs or its successor is exempt from licensure while functioning as an anesthesiologist assistant student. If the student is providing anesthesia, the student shall be supervised on a one-to-one basis by an anesthesiologist who is continuously present in the operating room.

B. An anesthesiologist assistant employed by the federal government is not required to be licensed as an anesthesiologist assistant pursuant to the Anesthesiologist Assistants Act while performing duties incident to that employment.

§ 61-6-10.8. Repealed by L. 2003, Ch. 19, § 29

§ 61-6-10.9. Rules

A. The board may adopt and enforce reasonable rules:

- (1) for setting qualifications of education, skill and experience for licensure of a person as an anesthesiologist assistant;
- (2) for providing procedures and forms for licensure and annual registration;
- (3) for examining and evaluating applicants for licensure as an anesthesiologist assistant regarding the required skill, knowledge and experience in developing and implementing anesthesia care plans under supervision;
- (4) for allowing a supervising anesthesiologist to temporarily delegate his supervisory responsibilities for an anesthesiologist assistant to another anesthesiologist;
- (5) for allowing an anesthesiologist assistant to temporarily serve under the supervision of an anesthesiologist other than the supervising anesthesiologist with whom the anesthesiologist assistant is registered; and
- (6) to carry out the provisions of the Anesthesiologist Assistants Act.

B. The board shall not adopt a rule allowing an anesthesiologist assistant to perform procedures outside the anesthesiologist assistant's scope of practice.

C. The board shall adopt rules:

- (1) establishing requirements for anesthesiologist assistant licensing, including:
 - (a) completion of a graduate level training program accredited by the commission on accreditation of allied health education programs;
 - (b) successful completion of a certifying examination for anesthesiologist assistants administered by the national commission for the certification of anesthesiologist assistants; and
 - (c) current certification by the American heart association in advanced cardiac life-support techniques;
- (2) establishing minimum requirements for continuing education of not less than forty hours every two years;
- (3) requiring adequate identification of the anesthesiologist assistant to patients and others;
- (4) requiring the presence, except in cases of emergency, and the documentation of the presence, of the supervising anesthesiologist in the operating room during induction of a general or regional anesthetic and during emergence from a general anesthetic, the presence of the supervising anesthesiologist within the operating suite and immediate availability to the operating room at other times when the anesthetic procedure is being performed and requiring that the anesthesiologist assistant comply with the above restrictions;
- (5) requiring the supervising anesthesiologist to ensure that all activities, functions, services and treatment measures are properly documented in written form by the anesthesiologist assistant. The anesthesia record shall be reviewed, countersigned and dated by the supervising anesthesiologist;
- (6) requiring the anesthesiologist assistant to inform the supervising anesthesiologist of serious adverse events;
- (7) establishing the number of anesthesiologist assistants a supervising anesthesiologist may supervise at one time, which number, except in emergency cases, shall not exceed three. An anesthesiologist shall not supervise, except in emergency cases, more than four anesthesia providers if at least one anesthesia provider is an anesthesiologist assistant; and

(8) within twelve months of the date on which the Anesthesiologist Assistants Act becomes effective, providing for enhanced supervision at the commencement of an anesthesiologist assistant's practice.

§ 61-6-10.10. Supervising anesthesiologist; responsibilities

A. Supervising anesthesiologists shall be licensed to practice pursuant to the Medical Practice Act and shall be approved by the board.

B. The anesthesiologist actually supervising the licensed anesthesiologist assistant at the time is individually responsible and liable for the acts and omissions that the anesthesiologist assistant performs in the scope of his duties. Nothing in the Anesthesiologist Assistants Act relieves a supervising anesthesiologist of the responsibility and liability of his own acts or omissions.

C. An anesthesiologist may have that number of anesthesiologist assistants under his supervision as permitted by the board.

§ 61-6-11. Licensure

A. The board may consider for licensure a person who is of good moral character, is a graduate of an accredited United States or Canadian medical school, has passed an examination approved by the board and has completed two years of an approved postgraduate training program.

B. An applicant who has not completed two years of an approved postgraduate training program, but who otherwise meets all other licensing requirements, may present evidence to the board of the applicant's other professional experience for consideration by the board in lieu of the approved postgraduate training program. The board shall, in its sole discretion, determine if the professional experience is substantially equivalent to the required approved postgraduate training program.

C. A graduate of a board-approved medical school located outside the United States or Canada may be granted a license to practice medicine in New Mexico, provided the applicant presents evidence to the board that the applicant is a person of good moral character and is in compliance with the United States immigration laws and provided that the applicant presents satisfactory evidence to the board that the applicant has successfully passed an examination as required by the board and has successfully completed two years of postgraduate medical training in an approved postgraduate training program. A graduate of a medical school located outside the United States who successfully completes at least two years of an approved postgraduate training program at or affiliated with an institution located in New Mexico prior to December 30, 2007 and who meets the other requirements of this section may also be granted a license to practice medicine.

D. All applicants for licensure may be required to appear personally before the board or a designated agent for an interview.

E. An applicant for licensure by examination shall not be granted a license if the applicant has taken the examination in two or more steps and has failed to successfully pass the final step within seven years of the date that the first step was passed. An applicant for licensure who holds a medical doctor degree and a doctoral degree in a medically related field must successfully complete the entire examination series within ten years from the date the first step of the examination is passed. Provided, that the board may, by rule, establish exceptions to the time requirements of this subsection.

F. Every applicant for licensure under this section shall pay the fees required by Section 61-6-19 NMSA 1978.

G. The board may require fingerprints and other information necessary for a state and national criminal background check.

§ 61-6-11.1. Telemedicine license

A. The board shall issue a telemedicine license to allow the practice of medicine across state lines to an applicant who holds a full and unrestricted license to practice medicine in another state or territory of the United States. The board shall establish by rule the requirements for licensure; provided the requirements shall not be more restrictive than those required for licensure by endorsement.

B. A telemedicine license shall be issued for a period not to exceed three years and may be renewed upon application, payment of fees as provided in Section 61-6-19 NMSA 1978 and compliance with other requirements established by rule of the board.

§ 61-6-12. Criminal offender's character evaluation

The provisions of the Criminal Offender Employment Act shall govern any consideration of criminal records required or permitted by the Medical Practice Act.

§ 61-6-13. Licensure by endorsement

A. The board may grant a license by endorsement to an applicant who:

- (1) has graduated from an accredited United States or Canadian medical school;
- (2) is board certified in a specialty recognized by the American board of medical specialties;
- (3) has been a licensed physician in the United States or Canada and has practiced medicine in the United States or Canada immediately preceding the application for at least three years;
- (4) holds an unrestricted license in another state or Canada; and
- (5) was not the subject of a disciplinary action in a state or province.

B. The board may grant a license by endorsement to an applicant who:

- (1) has graduated from a medical school located outside the United States or Canada;
- (2) is of good moral character;
- (3) is in compliance with the United States immigration laws;
- (4) is board certified in a specialty recognized by the American board of medical specialties;
- (5) has been a licensed physician in the United States or Canada and has practiced medicine in the United States or Canada immediately preceding the application for at least three years;
- (6) holds an unrestricted license in another state or Canada; and
- (7) was not the subject of disciplinary action in a state or province.

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

generally available in this state, and patients residing in this state have a significant need for such skills and experience, the board may waive a requirement imposing time limits for examination completion that are different from requirements of the state where the applicant is licensed.

D. An applicant for licensure under this section may be required to personally appear before the board or a designated agent for an interview.

E. An applicant for licensure under this section shall pay an application fee as provided in Section 61-6-19 NMSA 1978.

F. The board may require fingerprints and other information necessary for a state and national criminal background check.

§ 61-6-14. Organized youth camp or school temporary licenses and temporary licenses for out-of-state physicians

A. The secretary-treasurer of the board or the board's designee may, either by examination or endorsement, approve a temporary license to practice medicine and surgery to an applicant qualified to practice medicine and surgery in this state who will be temporarily in attendance at an organized youth camp or school, provided that:

- (1) the practice shall be confined to enrollees, leaders and employees of the camp or school;
- (2) the temporary license shall be issued for a period not to exceed three months from date of issuance; and
- (3) the temporary license may be issued upon written application of the applicant, accompanied by such proof of the qualifications of the applicant as specified by board rule.

B. The secretary-treasurer of the board or the board's designee may approve a temporary license to practice medicine and surgery under the supervision of a licensed physician to an applicant who is licensed to practice medicine in another state, territory of the United States or another country and who is qualified to practice medicine and surgery in this state. The following provisions shall apply:

- (1) the temporary license may be issued upon written application of the applicant, accompanied by proof of qualifications as specified by rule of the board. A temporary license may be granted to allow the applicant to assist in teaching, conducting research, performing specialized diagnostic and treatment procedures, implementing new technology and for physician educational purposes. A licensee may engage in only the activities specified on the temporary license, and the temporary license shall identify the licensed physician who will supervise the applicant during the time the applicant practices medicine in New Mexico. The supervising licensed physician shall submit an affidavit attesting to the qualifications of the applicant and activities the applicant will perform; and
- (2) the temporary license shall be issued for a period not to exceed three months from date of issuance and may be renewed upon application and payment of fees as provided in Section 61-6-19 NMSA 1978.

C. The application for a temporary license under this section shall be accompanied by a license fee as provided in Section 61-6-19 NMSA 1978.

§ 61-6-15. License may be refused, revoked or suspended; licensee may be fined, censured or reprimanded; procedure; practice after suspension or revocation; penalty; unprofessional and dishonorable conduct defined; fees and expenses

<Text of section effective July 1, 2009>

A. The board may refuse to license and may revoke or suspend a license that has been issued by the board or a

previous board and may fine, censure or reprimand a licensee upon satisfactory proof being made to the board that the applicant for or holder of the license has been guilty of unprofessional or dishonorable conduct. The board may also refuse to license an applicant who is unable to practice medicine, practice as a physician assistant or an anesthesiologist assistant or practice genetic counseling, pursuant to Section 61-7-3 NMSA 1978. All proceedings shall be as required by the Uniform Licensing Act or the Impaired Health Care Provider Act.

B. The board may, in its discretion and for good cause shown, place the licensee on probation on the terms and conditions it deems proper for protection of the public, for the purpose of rehabilitation of the probationer or both. Upon expiration of the term of probation, if a term is set, further proceedings may be abated by the board if the holder of the license furnishes the board with evidence that the licensee is competent to practice, is of good moral character and has complied with the terms of probation.

C. If evidence fails to establish to the satisfaction of the board that the licensee is competent and is of good moral character or if evidence shows that the licensee has not complied with the terms of probation, the board may revoke or suspend the license. If a license to practice in this state is suspended, the holder of the license may not practice during the term of suspension. A person whose license has been revoked or suspended by the board and who thereafter practices or attempts or offers to practice in New Mexico, unless the period of suspension has expired or been modified by the board or the license reinstated, is guilty of a felony and shall be punished as provided in Section 61-6-20 NMSA 1978.

D. "Unprofessional or dishonorable conduct", as used in this section, means, but is not limited to because of enumeration, conduct of a licensee that includes the following:

- (1) procuring, aiding or abetting a criminal abortion;
- (2) employing a person to solicit patients for the licensee;
- (3) representing to a patient that a manifestly incurable condition of sickness, disease or injury can be cured;
- (4) obtaining a fee by fraud or misrepresentation;
- (5) willfully or negligently divulging a professional confidence;
- (6) conviction of an offense punishable by incarceration in a state penitentiary or federal prison or conviction of a misdemeanor associated with the practice of the licensee. A copy of the record of conviction, certified by the clerk of the court entering the conviction, is conclusive evidence;
- (7) habitual or excessive use of intoxicants or drugs;
- (8) fraud or misrepresentation in applying for or procuring a license to practice in this state or in connection with applying for or procuring renewal, including cheating on or attempting to subvert the licensing examinations;
- (9) making false or misleading statements regarding the skill of the licensee or the efficacy or value of the medicine, treatment or remedy prescribed or administered by the licensee or at the direction of the licensee in the treatment of a disease or other condition of the human body or mind;
- (10) impersonating another licensee, permitting or allowing a person to use the license of the licensee or practicing as a licensee under a false or assumed name;
- (11) aiding or abetting the practice of a person not licensed by the board;
- (12) gross negligence in the practice of a licensee;

- (13) manifest incapacity or incompetence to practice as a licensee;
- (14) discipline imposed on a licensee by another state, including denial, probation, suspension or revocation, based upon acts by the licensee similar to acts described in this section. A certified copy of the record of suspension or revocation of the state making the suspension or revocation is conclusive evidence;
- (15) the use of a false, fraudulent or deceptive statement in a document connected with the practice of a licensee;
- (16) fee splitting;
- (17) the prescribing, administering or dispensing of narcotic, stimulant or hypnotic drugs for other than accepted therapeutic purposes;
- (18) conduct likely to deceive, defraud or harm the public;
- (19) repeated similar negligent acts;
- (20) employing abusive billing practices;
- (21) failure to report to the board any adverse action taken against the licensee by:
 - (a) another licensing jurisdiction;
 - (b) a peer review body;
 - (c) a health care entity;
 - (d) a professional or medical society or association;
 - (e) a governmental agency;
 - (f) a law enforcement agency; or
 - (g) a court for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section;
- (22) failure to report to the board surrender of a license or other authorization to practice in another state or jurisdiction or surrender of membership on any medical staff or in any medical or professional association or society following, in lieu of and while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section;
- (23) failure to furnish the board, its investigators or representatives with information requested by the board;
- (24) abandonment of patients;
- (25) being found mentally incompetent or insane by a court of competent jurisdiction;
- (26) injudicious prescribing, administering or dispensing of a drug or medicine;
- (27) failure to adequately supervise, as provided by board rule, a medical or surgical assistant or technician or professional licensee who renders health care;

(28) sexual contact with a patient or person who has authority to make medical decisions for a patient, other than the spouse of the licensee;

(29) conduct unbecoming in a person licensed to practice or detrimental to the best interests of the public;

(30) the surrender of a license or withdrawal of an application for a license before another state licensing board while an investigation or disciplinary action is pending before that board for acts or conduct similar to acts or conduct that would constitute grounds for action pursuant to this section;

(31) sexual contact with a former mental health patient of the licensee, other than the spouse of the licensee, within one year from the end of treatment;

(32) sexual contact with a patient when the licensee uses or exploits treatment, knowledge, emotions or influence derived from the previous professional relationship;

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

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

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

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

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

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

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

F. Licensees whose licenses are in a probationary status shall pay reasonable expenses for maintaining probationary status, including laboratory costs when laboratory testing of biological fluids are included as a condition of probation.

§ 61-6-15.1. Summary suspension or restriction of license

A. The board may summarily suspend or restrict a license issued by the board without a hearing, simultaneously with or at any time after the initiation of proceedings for a hearing provided under the Uniform Licensing Act, if the board finds that evidence in its possession indicates that the licensee:

(1) poses a clear and immediate danger to the public health and safety if the licensee continues to practice;

(2) has been adjudged mentally incompetent by a final order or adjudication by a court of competent jurisdiction;
or

(3) has pled guilty to or been found guilty of any offense related to the practice of medicine or for any violent criminal offense in this state or a substantially equivalent criminal offense in another jurisdiction.

B. A licensee is not required to comply with a summary action until service has been made or the licensee has actual knowledge of the order, whichever occurs first.

C. A person whose license is suspended or restricted under this section is entitled to a hearing by the board pursuant to the Uniform Licensing Act within fifteen days from the date the licensee requests a hearing.

§ 61-6-16. Reporting of settlements and judgments, professional review actions and acceptance of surrendered license; immunity from civil damages; penalty

A. All entities that make payments under a policy of insurance, self-insurance or otherwise in settlement or satisfaction of a judgment in a medical malpractice action or claim, hospitals, health care entities and professional review bodies shall report to the board all payments relating to malpractice actions or claims arising in New Mexico that involve a licensee and that are paid as a direct result of the licensee's care, all appropriate professional review actions of licensees and the acceptance or surrender of clinical privileges by a licensee while under investigation or in lieu of an investigation. For the purposes of this section, the meaning of these terms shall be as contained in Section 431 of the federal Health Care Quality Improvement Act of 1986, 42 USCA Section 11151.

B. The hospitals required to report under this section, health care entities or professional review bodies that provide such information in good faith shall not be subject to suit for civil damages as a result of providing the information.

C. A hospital, health care entity or professional review body failing to comply with the reporting requirements provided in this section shall be subject to civil penalty not to exceed ten thousand dollars (\$10,000).

§ 61-6-17. Exceptions to act

The Medical Practice Act shall not apply to or affect:

A. gratuitous services rendered in cases of emergency;

B. the domestic administration of family remedies;

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

D. commissioned medical officers of the armed forces of the United States and medical officers of the United States public health service or the veterans administration of the United States in the discharge of their official duties or within federally controlled facilities; provided that such persons who hold medical licenses in New Mexico shall be subject to the provisions of the Medical Practice Act and provided that all such persons shall be fully licensed to practice medicine in one or more jurisdictions of the United States;

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

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

(1) osteopathy;

(2) dentistry;

- (3) podiatry;
- (4) nursing;
- (5) optometry;
- (6) psychology;
- (7) chiropractic;
- (8) pharmacy;
- (9) acupuncture and oriental medicine; or
- (10) physical therapy;

G. an act, task or function performed by a physician assistant at the direction of and under the supervision of a licensed physician, when:

- (1) the physician assistant is currently licensed by the board;
- (2) the act, task or function is performed at the direction of and under the supervision of a licensed physician in accordance with rules promulgated by the board; and
- (3) the acts of the physician assistant are within the scope of duties assigned or delegated by the supervising licensed physician and the acts are within the scope of the assistant's training;

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

- (1) a licensed physician or a hospital, clinic or institution licensed or approved by the public health division of the department of health or an agency of the federal government; or
- (2) a health care program operated or financed by an agency of the state or federal government;

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

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

K. the acts of a physician licensed under the laws of another state of the United States who is the treating physician of a patient and orders home health or hospice services for a resident of New Mexico to be delivered by a home and community support services agency licensed in this state; provided that a change in the condition of the patient shall be physically reevaluated by the treating physician in the treating physician's jurisdiction or by a li-

censed New Mexico physician;

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

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

§ 61-6-18. Medical students; interns; residents

A. Nothing in the Medical Practice Act shall prevent a medical student properly registered or enrolled in a medical college or school in good standing from diagnosing or treating the sick or afflicted, provided that the medical student does not receive compensation for services and such services are rendered under the supervision of the school faculty as part of the student's course of study.

B. Any intern or resident who is appointed in a board-approved residency training program may pursue such training after obtaining a postgraduate training license from the board. The board may adopt by rule specific education or examination requirements for a postgraduate training license.

C. Any person serving in the assigned rotations and performing the assigned duties in a board-approved residency training program accredited in New Mexico may do so for an aggregate period not to exceed eight years or completion of the residency, whichever is shorter.

D. The board may require any applicant for a postgraduate training license required in Subsections B and C of this section to personally appear before the board or a designated member of the board for an interview.

E. Every applicant for a postgraduate training license under this section shall pay the fees required by Section 61-6-19 NMSA 1978.

F. Postgraduate training licenses shall be renewed annually and shall be effective during each year or part of a year of postgraduate training.

§ 61-6-18.1. Public service license

A. Applicants for a public service license shall meet all requirements for licensure and shall:

(1) be enrolled in a board-approved residency training program either in New Mexico or in another jurisdiction;

(2) obtain written approval from the training program director of the applicant to pursue a public service practice opportunity outside the residency training program; and

(3) satisfy other reasonable requirements imposed by the board.

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

C. A public service license shall expire on September 1 of each year and may be renewed by the board.

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

§ 61-6-19. Fees

A. The board shall impose the following fees:

- (1) an application fee not to exceed four hundred dollars (\$400) for licensure by endorsement as provided in Section 61-6-13 NMSA 1978;
- (2) an application fee not to exceed four hundred dollars (\$400) for licensure by examination as provided in Section 61-6-11 NMSA 1978;
- (3) a triennial renewal fee not to exceed four hundred fifty dollars (\$450);
- (4) a fee of twenty-five dollars (\$25.00) for placing a physician's license or a physician assistant's license on inactive status;
- (5) a late fee not to exceed one hundred dollars (\$100) for physicians who renew their license within forty-five days after the required renewal date;
- (6) a late fee not to exceed two hundred dollars (\$200) for physicians who renew their licenses between forty-six and ninety days after the required renewal date;
- (7) a reinstatement fee not to exceed six hundred dollars (\$600) for reinstatement of a revoked, suspended or inactive license;
- (8) a reasonable administrative fee for verification and duplication of license or registration and copying of records;
- (9) a reasonable publication fee for the purchase of a publication containing the names of all practitioners licensed under the Medical Practice Act;
- (10) an impaired physician fee not to exceed one hundred fifty dollars (\$150) for a three-year period;
- (11) an interim license fee not to exceed one hundred dollars (\$100);
- (12) a temporary license fee not to exceed one hundred dollars (\$100);
- (13) a postgraduate training license fee not to exceed fifty dollars (\$50.00) annually;
- (14) an application fee not to exceed one hundred fifty dollars (\$150) for physician assistants applying for initial licensure;
- (15) a licensure fee not to exceed one hundred fifty dollars (\$150) for physician assistants biennial licensing and registration of supervising licensed physician;
- (16) a late fee not to exceed fifty dollars (\$50.00) for physician assistants who renew their licensure within forty-five days after the required renewal date;
- (17) a late fee not to exceed seventy-five dollars (\$75.00) for physician assistants who renew their licensure between forty-six and ninety days after the required renewal date;
- (18) a reinstatement fee not to exceed one hundred dollars (\$100) for physician assistants who reinstate an expired license;

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

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

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

(22) a reasonable administrative fee, not to exceed the current cost of application for a license, that may be charged for reprocessing applications and renewals that include minor but significant errors and that would otherwise be subject to investigation and possible disciplinary action; and

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

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

§ 61-6-20. Practicing without license; penalty

A. Any person who practices medicine or who attempts to practice medicine without first complying with the provisions of the Medical Practice Act and without being the holder of a license entitling him to practice medicine in New Mexico is guilty of a fourth degree felony.

B. Any person who practices medicine across state lines or who attempts to practice medicine across state lines without first complying with the provisions of the Medical Practice Act and without being the holder of a telemedicine license entitling him to practice medicine across state lines is guilty of a fourth degree felony.

C. Any person convicted pursuant to Subsection A or B of this section shall be sentenced under the provisions of the Criminal Sentencing Act to imprisonment for a definite period not to exceed eighteen months and, in the discretion of the sentencing court, to a fine not to exceed five thousand dollars (\$5,000), or both. Each occurrence of practicing medicine or attempting to practice medicine without complying with the Medical Practice Act shall be a separate violation.

§ 61-6-21. Continuing medical education; penalty

A. The board may establish rules pertaining to continuing medical education for licensees.

B. The board may suspend the license of a licensee who fails to comply with continuing medical education or continuing education requirements until the requirements are fulfilled.

§ 61-6-22. Injunction to prevent practice without a license

The attorney general, the prosecuting attorney, the board or any citizen of any county where any person engages in the practice of medicine as defined by the laws of New Mexico without possessing a valid license to do so may, in accordance with the laws of the state governing injunctions, maintain an action in the name of the state to enjoin such person from engaging in the practice of medicine until a valid license to practice medicine is secured from the board. Any person who has been so enjoined who violates the injunction shall be punished for contempt of court. Provided, however, the injunction shall not relieve the person practicing medicine without a valid license from criminal prosecution therefor as provided by law, but such remedy by injunction shall be in addition to any remedy now provided for criminal prosecution of such offender. In charging any person in a petition for injunction or in an information or indictment with a violation of law by practicing medicine without a valid license, it is sufficient to charge that the person did, on a certain day and in a certain county, engage in the practice of medicine without having a valid license without alleging any further or more particular facts.

§ 61-6-23. Investigation; subpoena

To investigate a complaint against a licensee, the board may issue investigative subpoenas prior to the issuance of a notice of contemplated action.

§ 61-6-24. Limitations on actions

A. No action that would have any of the effects specified in Sections 61-6-15 and 61-6-15.1 NMSA 1978 may be initiated by the board later than two years after it is brought to the board's attention.

B. The time limitation contained in Subsection A of this section shall be tolled by any civil or criminal litigation in which the licensee or applicant is a party arising substantially from the same facts, conduct, transaction or transactions that would be the basis of the board's decision.

§ 61-6-25. False statement; penalty

Any person making a false statement under oath or a false affidavit shall be guilty of a fourth degree felony and upon conviction shall be sentenced in accordance with the Criminal Sentencing Act to eighteen months imprisonment and, in the sentencing court's discretion, to a fine of not more than five thousand dollars (\$5,000).

§ 61-6-26. Triennial renewal fees; penalty for failure to renew license

A. On or before July 1 of every third year, every licensed physician in this state shall apply for a certificate of triennial renewal of license for the ensuing three years. The fact that a licensed physician has not received a renewal form from the board shall not relieve the physician of the duty to renew the license and the omission by the board shall not operate to exempt the physician from the penalties provided by Chapter 61, Article 6 NMSA 1978 for failure to renew his license.

B. All licensed physicians shall pay a triennial renewal fee and impaired physicians fee as provided in Section 61-6-19 NMSA 1978 and shall return the completed renewal form together with the renewal fee and other required documentation.

C. Each application for triennial renewal of license shall state the licensed physician's full name, business address, license number and date and all other information requested by the board.

D. A licensed physician who fails to submit his application for triennial renewal on or before July 1 but who submits his application for triennial renewal by August 15 shall be assessed a late fee as provided in Section 61-6-19 NMSA 1978.

E. A physician who submits the application for triennial renewal between August 16 and September 30 shall be assessed a cumulative late fee as provided in Paragraph (6) of Subsection A of Section 61-6-19 NMSA 1978.

F. After September 30, the board may, in its discretion, summarily suspend for nonpayment of fees the license of a physician who has failed to renew his license.

§ 61-6-27. Issuance and display of renewal certificate

The board shall issue to each licensed physician, upon application in accordance with the provisions of the Medical Practice Act and upon payment of the appropriate fees and upon documentation of continuing education requirements, a certificate of triennial renewal, under the seal of the board, for the ensuing three years. The certificate of renewal shall contain the licensed physician's name, business address, license date and number and other information as the board deems advisable. The certificate of triennial renewal shall, at all times, be displayed conspicuously in the principal office or practice location of the licensed physician to whom it has been issued.

§ 61-6-28. Licensed physicians; changing location

A licensed physician who changes the location of his office or residence shall promptly notify the board of the change.

§ 61-6-29. Repealed by L. 2003, Ch. 19, § 29

§ 61-6-30. Restoration of good standing; fees and other requirements

A. Before restoring to good standing a license that has been in a revoked, suspended or inactive status for any cause for more than two years, the board may require the applicant to pass an oral or written examination, or both, to determine the current fitness of the applicant to resume practice and may impose conditions in its discretion.

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

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

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

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

D. If the board in its discretion determines that the applicant is qualified to be reissued a license in good standing, the applicant shall pay to the board a reinstatement fee.

§ 61-6-31. Disposition of funds; New Mexico medical board fund created; method of payments

A. There is created the "New Mexico medical board fund".

B. All funds received by the board and money collected under the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act and the Impaired Health Care Provider Act shall be deposited with the state treasurer who shall place the same to the credit of the New Mexico medical board fund.

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

D. All amounts in the New Mexico medical board fund shall be subject to the order of the board and shall be used only for the purpose of meeting necessary expenses incurred in:

(1) the performance of the provisions of the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act and the Impaired Health Care Provider Act and the duties and powers imposed by those acts;

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

(3) efforts to recruit and retain medical doctors for practice in New Mexico.

E. All funds that may have accumulated to the credit of the board under any previous law shall be transferred to the New Mexico medical board fund and shall continue to be available for use by the board in accordance with the provisions of the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act and the Impaired Health Care Provider Act. All money unused at the end of the fiscal year shall not revert, but shall re-

main in the fund for use in accordance with the provisions of the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act and the Impaired Health Care Provider Act.

§ 61-6-31.1. Board of medical examiners fund; authorized use

Pursuant to Subsection D of Section 61-6-31 NMSA 1978, the board shall authorize expenditures from unexpended and unencumbered cash balances in the board of medical examiners 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.

§ 61-6-32. Termination of suspension of license for mental illness; restoration; terms and conditions

A. A suspension under Paragraph (25) of Subsection D of Section 61-6-15 NMSA 1978 may, in the discretion of the board, be terminated, but the suspension shall continue and the board shall not restore to the former practitioner the privilege to practice medicine and surgery in this state until:

(1) the board receives competent evidence that the former practitioner is not mentally ill; and

(2) the board is satisfied, in the exercise of its discretion and with due regard for the public interest, that the practitioner's former privilege to practice medicine and surgery may be safely restored.

B. If the board, in the exercise of its discretion, determines that the practitioner's former privilege to practice medicine may be safely restored, it may restore such privilege upon whatever terms and conditions it deems advisable. If the practitioner fails, refuses or neglects to abide by the terms and conditions, his license to practice medicine may, in the discretion of the board, be again suspended indefinitely.

§ 61-6-33. Licensure status

Upon a verified written request, a licensee may request that the license be put in retirement, inactive or voluntary lapsed status. Upon request for reinstatement of active status, the board may impose conditions as provided in Section 61-6-30 NMSA 1978.

§ 61-6-34. Protected actions; communication

A. No current or former member of the board, officer, administrator, staff member, committee member, examiner, representative, agent, employee, consultant, witness or any other person serving or having served the board shall bear liability or be subject to civil damages or criminal prosecutions for any action or omission undertaken or performed within the scope of the board's duties.

B. All written and oral communications made by any person to the board relating to actual and potential disciplinary action shall be confidential communications and are not public records for the purposes of the Inspection of Public Records Act. All data, communications and information acquired by the board relating to actual or potential disciplinary action shall not be disclosed except to the extent necessary to carry out the board's purposes or in a judicial appeal from the board's actions.

C. No person or legal entity providing information to the board, whether as a report, a complaint or testimony, shall be subject to civil damages or criminal prosecutions.

§ 61-6-35. Termination of agency life; delayed repeal

The New Mexico medical board is terminated on July 1, 2015 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Medical Practice Act until July 1, 2016. Effective July 1, 2016, the Medical Practice Act is repealed.

§ 61-6A-1. Short title

<Text of section effective July 1, 2009>

Sections 1 through 10 of this act may be cited as the “Genetic Counseling Act”.

§ 61-6A-2. Findings and purpose

<Text of section effective July 1, 2009>

A. The legislature finds that the mapping of the human genome continues to result in the rapid expansion of genetic knowledge and a proliferation of testing for genetic conditions. This has created a need for qualified professional genetic counselors to coordinate assessments, to deliver accurate information to families, to assist families in adjusting to the implications of their diagnoses and to help ensure that genetic information is used appropriately in the delivery of medical care.

B. The purpose of the Genetic Counseling Act is to protect the public from the unprofessional, improper, incompetent and unlawful practice of genetic counseling.

§ 61-6A-3. Definitions

<Text of section effective July 1, 2009>

As used in the Genetic Counseling Act:

A. “ABGC” means the American board of genetic counseling, a national agency for certification and recertification of genetic counselors, or its successor agency;

B. “ABMG” means the American board of medical genetics, a national agency for certification and recertification of genetic counselors and geneticists with medical or other doctoral degrees, or its successor agency;

C. “board” means the New Mexico medical board;

D. “genetic counseling” means a communication process that may include:

(1) estimating the likelihood of occurrence or recurrence of any potentially inherited or genetically influenced condition or congenital abnormality. “Genetic counseling” may involve:

(a) obtaining and analyzing the complete health history of an individual and family members;

(b) reviewing pertinent medical records;

(c) evaluating the risks from exposure to possible mutagens or teratogens; and

(d) determining appropriate genetic testing or other evaluations to diagnose a condition or determine the carrier status of one or more family members;

(2) helping an individual, family or health care provider to:

(a) appreciate the medical, psychological and social implications of a disorder, including its features, variability, usual course and management options;

(b) learn how genetic factors contribute to a disorder and affect the chance for occurrence of the disorder in other family members;

(c) understand available options for coping with, preventing or reducing the chance of occurrence or recurrence of a disorder;

(d) select the most appropriate, accurate and cost-effective methods of diagnosis; and

(e) understand genetic or prenatal tests, coordinate testing for inherited disorders and interpret complex genetic test results; and

(3) facilitating an individual's or family's:

(a) exploration of the perception of risk and burden associated with a genetic disorder; and

(b) adjustment and adaptation to a disorder or the individual's or family's genetic risk by addressing needs for psychological, social and medical support; and

E. "genetic counselor" means a person licensed pursuant to the Genetic Counseling Act to engage in the practice of genetic counseling.

§ 61-6A-4. License required

<Text of section effective July 1, 2009>

Unless licensed as a genetic counselor pursuant to the Genetic Counseling Act, a person shall not:

A. engage in the practice of genetic counseling;

B. use the title or make any representation as being a licensed genetic counselor or use any other title, abbreviation, letters, figures, signs or devices that indicate or imply that the person is licensed to practice as a genetic counselor, including a genetic associate, gene counselor or genetic consultant; or

C. advertise, hold out to the public or represent in any manner that the person is authorized to practice genetic counseling.

§ 61-6A-5. Exemptions

<Text of section effective July 1, 2009>

A. Nothing in the Genetic Counseling Act is intended to limit, interfere with or prevent a licensed health care professional from practicing within the scope of the professional license of that health care professional; however, a licensed health care professional shall not advertise to the public or any private group or business by using any title or description of services that includes the term "genetic counseling" unless the health care professional is licensed under the Genetic Counseling Act.

B. The Genetic Counseling Act shall not apply to or affect:

(1) a physician licensed under the Medical Practice Act;

(2) a commissioned physician or surgeon serving in the armed forces of the United States or a federal

agency; or

(3) an osteopathic physician licensed by the board of osteopathic medical examiners.

§ 61-6A-6. Requirements for licensing

<Text of section effective July 1, 2009>

The board shall grant a license to practice genetic counseling to a person who has:

A. submitted to the board:

(1) a completed application for licensing on the form provided by the board;

(2) required documentation as determined by the board;

(3) the required fees;

(4) an affidavit stating that the applicant has not been found guilty of unprofessional conduct or incompetence;

(5) satisfactory documentation of having earned:

(a) a master's degree from a genetic counseling training program that is accredited by the ABGC, or an equivalent as determined by the board; or

(b) a doctoral degree from a medical genetics training program that is accredited by the ABMG, or an equivalent as determined by the board; and

(6) proof that the applicant is ABGC- or ABMG-certified; and

B. complied with any other requirements of the board.

§ 61-6A-7. License renewal

<Text of section effective July 1, 2009>

A. A licensee shall renew the licensee's genetic counseling license biennially by submitting prior to the date established by the board:

(1) the completed application for license renewal on the form provided by the board; and

(2) the required fee for annual license renewal.

B. The board may require proof of continuing education or other proof of competence as a requirement for renewal.

C. A sixty-day grace period shall be allowed a licensee after the end of the licensing period, during which time the license may be renewed by submitting:

(1) the completed application for license renewal on the form provided by the board;

(2) the required fee for annual license renewal; and

(3) the required late fee.

D. A genetic counselor's license not renewed at the end of the grace period shall be considered expired, and the licensee shall not be eligible to practice within the state. For reinstatement of an expired license within one year of the date of renewal, the board shall establish requirements or fees that are in addition to the fee for annual license renewal and may require the former licensee to reapply as a new applicant.

§ 61-6A-8. Temporary license

<Text of section effective July 1, 2009>

A. The board may issue a temporary license to an applicant who has met all licensure requirements except the examination requirement. The temporary license is valid until the results of the next scheduled examination are available and a license is issued or denied. The temporary license automatically expires if the applicant fails to take the next scheduled examination, or upon release of official examination results if the applicant fails the examination.

B. The board may issue a temporary license to a person licensed in another state or country who:

(1) is in New Mexico temporarily to teach or assist a New Mexico resident licensed to practice genetic counseling; or

(2) met the requirements for licensure in that state, which were equal to or greater than the requirements for licensure in New Mexico at the time the license was obtained in the other state.

C. The board shall not issue a temporary license to a person who qualifies for the temporary license under Subsection A of this section more than two consecutive times within the five-year period immediately following the issuance of the first temporary license.

D. A person practicing genetic counseling under a temporary license shall be supervised by a licensed genetic counselor or physician.

§ 61-6A-9. Fees

<Text of section effective July 1, 2009>

The board shall establish a schedule of reasonable administrative and licensing fees, but an individual fee shall not exceed four hundred dollars (\$400).

§ 61-6A-10. Criminal Offender Employment Act

<Text of section effective July 1, 2009>

The provisions of the Criminal Offender Employment Act shall govern any consideration of criminal records required or permitted by the Genetic Counseling Act.

§ 61-6B-1. Short title

Sections 1 through 10 of this act may be cited as the "Polysomnography Practice Act".

§ 61-6B-2. Definitions

As used in the Polysomnography Practice Act:

- A. "board" means the New Mexico medical board;
- B. "committee" means the polysomnography practice advisory committee;
- C. "direct supervision" means that the polysomnographic technologist providing supervision shall be present in the area where the polysomnographic procedure is being performed and immediately available to furnish assistance and direction throughout the performance of the procedure;
- D. "general supervision" means that the polysomnographic procedure is provided under a physician's direction and control, but the physician's presence is not required during the performance of the procedure;
- E. "license" means an authorization issued by the board that permits a person to engage in the practice of polysomnography in the state;
- F. "licensed provider" means a licensed physician, licensed physician assistant, licensed certified nurse practitioner or licensed psychologist;
- G. "licensee" means a person licensed by the board to engage in the practice of polysomnography;
- H. "polysomnographic student" means a person who is enrolled in an educational program that is accredited by the commission on accreditation of allied health education programs, as provided in Section 5 of the Polysomnography Practice Act, and who may provide sleep-related services under the direct supervision of a polysomnographic technologist as a part of the person's educational program;
- I. "polysomnographic technician" means a person who has graduated from an accredited educational program described in Section 5 of the Polysomnography Practice Act but has not yet passed the national certifying examination given by the board of registered polysomnographic technologists, who has obtained a temporary permit from the board and who may provide sleep-related services under the general supervision of a licensed physician;
- J. "polysomnographic technologist" means a person who is credentialed by the board of registered polysomnographic technologists and is licensed by the board to engage in the practice of polysomnography under the general supervision of a licensed physician;
- K. "polysomnographic trainee" means a person who is enrolled in an accredited sleep technologist educational program that is accredited by the American academy of sleep medicine and who may provide sleep-related services under the direct supervision of a polysomnographic technologist as a part of the person's educational program;
- L. "practice of polysomnography" means the performance of diagnostic and therapeutic tasks, under the general supervision of a licensed physician, including:
 - (1) monitoring and recording physiologic activity and data during the evaluation or treatment of sleep-related disorders, including sleep-related respiratory disturbances, by applying appropriate techniques,

equipment and procedures, including:

(a) continuous or bi-level positive airway pressure titration on patients using a nasal or oral or a nasal and oral mask or appliance that does not extend into the trachea or attach to an artificial airway, including the fitting and selection of a mask or appliance and the selection and implementation of treatment settings;

(b) supplemental low-flow oxygen therapy that is less than ten liters per minute using nasal cannula or continuous or bi-level positive airway pressure during a polysomnogram;

(c) capnography during a polysomnogram;

(d) cardiopulmonary resuscitation;

(e) pulse oximetry;

(f) gastroesophageal pH monitoring;

(g) esophageal pressure monitoring;

(h) sleep staging, including surface electroencephalography, surface electrooculography and surface submental electromyography;

(i) surface electromyography;

(j) electrocardiography;

(k) respiratory effort monitoring, including thoracic and abdominal movement;

(l) respiratory plethysmography;

(m) arterial tonometry and additional measures of autonomic nervous system tone;

(n) snore monitoring;

(o) audio or video monitoring;

(p) body movement monitoring;

(q) nocturnal penile tumescence monitoring;

(r) nasal and oral airflow monitoring;

(s) body temperature monitoring; and

(t) use of additional sleep-related diagnostic technologies as determined by a rule adopted by the board;

(2) observing and monitoring physical signs and symptoms, general behavior and general physical response to polysomnographic evaluation or treatment and determining whether initiation, modification or discontinuation of a treatment regimen is warranted;

(3) analyzing and scoring data collected during the monitoring described in Paragraphs (1) and (2) of this subsection for the purpose of assisting a licensed provider in the diagnosis and treatment of sleep and wake disorders that result from developmental defects, the aging process, physical injury, disease or actual or anticipated somatic dysfunction;

(4) implementing a written or verbal order from a licensed provider that requires the practice of polysomnography;

(5) educating a patient regarding the treatment regimen that assists that patient in improving the patient's sleep; and

(6) initiating and monitoring treatment, under the orders of a licensed provider, for sleep-related breathing disorders by providing continuous positive airway pressure and bi-level positive airway pressure devices and accessories, including masks that do not extend into the trachea or attach to an artificial airway, to a patient for home use, together with educating the patient about the treatment and managing the treatment; and

M. "sleep-related services" means acts performed by polysomnographic technicians, polysomnographic trainees, polysomnographic students and other persons permitted to perform these services under the Polysomnography Practice Act, in a setting described in Subsection D of Section 4 of the Polysomnography Practice Act, that would be considered the practice of polysomnography if performed by a polysomnographic technologist.

§ 61-6B-3. License required; exceptions; practice limitations; applicability

A. On and after July 1, 2010, a person who is engaged in the practice of polysomnography must have a valid polysomnographic technologist license issued by the board. It shall be unlawful for a person to engage in the practice of polysomnography after that date unless the person has a valid polysomnographic technologist license issued by the board.

B. Prior to July 1, 2010, any person who is engaged in the practice of polysomnography without being licensed under the Polysomnography Practice Act shall not be deemed to be in violation of that act.

§ 61-6B-4. Exemptions

A. The following classes of persons may provide sleep-related services without being licensed as a polysomnographic technologist:

(1) a polysomnographic technician under the general supervision of a licensed physician for no more than two years from the date of the person's graduation from one of the accredited programs described in Section 5 of the Polysomnography Practice Act; provided that the board may grant a one-time extension of up to one year beyond the original two-year period;

(2) a polysomnographic trainee who may provide sleep-related services under the direct supervision of a polysomnographic technologist as a part of the trainee's educational program while actively enrolled in an accredited sleep technologist educational program that is accredited by the American academy of sleep medicine;

(3) a polysomnographic student who may provide uncompensated sleep-related services under the direct supervision of a polysomnographic technologist as a part of the student's educational program while actively enrolled in a polysomnographic educational program that is accredited by the commission on accreditation of allied health education programs; and

(4) a person, other than a respiratory care practitioner licensed under the Respiratory Care Act, credentialed in one of the health-related fields accepted by the board of registered polysomnographic technologists, who may provide sleep-related services under the direct supervision of a polysomnographic technologist for a period of up to one year while obtaining the clinical experience necessary to be eligible to take the examination given by the board of registered polysomnographic technologists.

B. Before providing any sleep-related services:

(1) a polysomnographic technician shall obtain a temporary permit from the board and when providing services shall wear a badge that appropriately identifies the person as a polysomnographic technician;

(2) a polysomnographic trainee shall give notice to the board that the trainee is enrolled in an accredited sleep technologist educational program accredited by the American academy of sleep medicine. When providing services, the trainee shall wear a badge that appropriately identifies the person as a polysomnographic trainee;

(3) a person who is obtaining clinical experience pursuant to Paragraph (4) of Subsection A of this section shall give notice to the board that the person is working under the direct supervision of a polysomnographic technologist in order to gain the experience to be eligible to take the examination given by the board of registered polysomnographic technologists. When providing services, the person shall wear a badge that appropriately identifies that the person is obtaining clinical experience; and

(4) a polysomnographic student shall wear a badge that appropriately identifies the person as a polysomnographic student.

C. A licensed dentist shall make or direct the making and use of any oral appliance used in the practice of polysomnography and shall evaluate the structures of a patient's oral and maxillofacial region for purposes of fitting the appliance.

D. The practice of polysomnography shall take place only in a hospital, a stand-alone sleep laboratory or sleep center or in a patient's home in accordance with a licensed provider's order; provided that the scoring of data and the education of patients may take place in settings other than in a hospital, sleep laboratory, sleep center or patient's home.

E. The Polysomnography Practice Act shall not apply to:

(1) a physician licensed under the Medical Practice Act;

(2) diagnostic electroencephalograms conducted in accordance with the guidelines of the American clinical neurophysiology society;

(3) a person who is employed in the practice of polysomnography by a federal government facility or agency in New Mexico; or

(4) a person qualified as a member of a recognized profession, the practice of which requires a license or is regulated pursuant to the laws of New Mexico, who renders services within the scope of the person's license or other regulatory authority; provided that the person does not represent that the person is a polysomnographic technologist.

§ 61-6B-5. Requirements for licensing

A. The board shall grant a license to engage in the practice of polysomnography to a person who has submitted to the board:

- (1) a completed application for licensing on the form provided by the board;
- (2) required documentation as determined by the board;
- (3) the required fees;
- (4) an affidavit stating that the applicant has not been found guilty of unprofessional conduct or incompetence;
- (5) satisfactory documentation of either:
 - (a) graduation from a polysomnographic educational program that is accredited by the commission on accreditation of allied health education programs;
 - (b) graduation from a respiratory care educational program that is accredited by the commission on accreditation of allied health education programs and completion of the curriculum for a polysomnography certificate established and accredited by the committee on accreditation for respiratory care of the commission on accreditation of allied health education programs;
 - (c) graduation from an electroneurodiagnostic technologist educational program with a polysomnographic technology track that is accredited by the commission on accreditation of allied health education programs; or
 - (d) successful completion of an accredited sleep technologist educational program that is accredited by the American academy of sleep medicine; provided, however, this optional requirement shall not be available after the date on which there are at least three polysomnographic technologist educational programs in New Mexico that have been accredited by the commission on accreditation of allied health education programs for at least the two years immediately preceding that date; and
- (6) satisfactory documentation of having:
 - (a) passed the national certifying examination given by the board of registered polysomnographic technologists or having passed a national certifying examination equivalent to the board of registered polysomnographic technologists' examination as determined by a rule adopted by the New Mexico medical board;
 - (b) been credentialed by the board of registered polysomnographic technologists or by another national entity equivalent to the board of polysomnographic technologists as determined by rule adopted by the New Mexico medical board;
 - (c) met any additional educational or clinical requirements established by the board pursuant to rule; and
 - (d) met all other requirements of the Polysomnography Practice Act.

B. A person who is engaged in the practice of polysomnography on July 1, 2008 shall be eligible for a license under the Polysomnography Practice Act without meeting the educational requirement of Paragraph (5) of Subsection A of this section, provided that the person meets the requirements of

Paragraph (6) of Subsection A of this section.

C. The board may require:

- (1) a personal interview with an applicant to evaluate that person's qualifications for a license; and
- (2) fingerprints and other information necessary for a state and national criminal background check.

§ 61-6B-6. License renewal

A. A licensee shall renew the licensee's polysomnographic technologist's license biennially by submitting prior to the date established by the board:

- (1) the completed application for license renewal on the form provided by the board; and
- (2) the required fee for biennial license renewal.

B. The board may require proof of continuing education or other proof of competence as a requirement for renewal.

C. A sixty-day grace period shall be allowed a licensee after the end of the licensing period, during which time the license may be renewed by submitting:

- (1) the completed application for license renewal on the form provided by the board;
- (2) the required fee for biennial license renewal; and
- (3) the required late fee.

D. A polysomnographic technologist's license not renewed at the end of the grace period shall be considered expired, and the licensee shall not be eligible to practice within the state. For reinstatement of an expired license within one year of the date of renewal, the board shall establish requirements or fees that are in addition to the fee for biennial license renewal and may require the former licensee to reapply as a new applicant.

§ 61-6B-7. License; contents; display; fees

A. A license issued by the board shall contain the name of the person to whom it is issued, the date and number of the license and other information the board may require.

B. The most recent address contained in the board's records for each licensee is the address deemed sufficient for purposes of service of process and correspondence and notice from the board. Any licensee whose address changes shall, within thirty days of the change, notify the board of the address change.

C. A licensee who wishes to retire from the practice of polysomnography shall file with the board an affidavit, in a form to be furnished by the board, stating the date on which the person retired from practice and other information the board may require. If that person wishes to reenter the practice of polysomnography, the person shall meet requirements established by the board for license renewal.

D. A licensee shall display the license in the office or place in which the licensee practices in a location clearly visible to patients.

E. The board shall establish license and administrative fees, but no individual fee shall exceed five hundred dollars (\$500).

§ 61-6B-8. Committee; creation; organization; per diem and mileage; removal

A. The "polysomnography practice advisory committee" is created to advise the board on all matters related to the Polysomnography Practice Act. The board shall provide administrative and financial support to the committee.

B. The committee shall have five members, who are residents of New Mexico, appointed by the board as follows:

(1) two members who are credentialed by the board of registered polysomnographic technologists; provided that when the New Mexico medical board begins issuing licenses, this category of committee members shall be three licensed polysomnographic technologists, with the then-sitting members in this category being given a reasonable amount of time to become licensed;

(2) one licensed physician who is certified in sleep medicine by a national certifying body recognized by the American academy of sleep medicine;

(3) one person whose background is at the discretion of the board; and

(4) one member of the public who is not economically or professionally associated with the health care field.

C. Term-length conditions for appointments to the committee are:

(1) for initial appointments, two members each for four-year, three-year and two-year terms and one member for a one-year term;

(2) for regular appointments after the initial appointments, four-year terms;

(3) for a vacancy appointment, the balance of the term; and

(4) for any one member, no more than two terms, including an initial appointment term; provided that a member shall continue to serve on the committee until a replacement is appointed.

D. The committee shall elect annually a chairperson and other officers as the committee determines to be necessary.

E. The committee shall meet at least twice per calendar year and otherwise as often as necessary to conduct business, with four members constituting a quorum and meetings subject to the Open Meetings Act.

F. Members of the committee shall be reimbursed as nonsalaried public officers pursuant to the Per Diem and Mileage Act, and members shall receive no other compensation, perquisite or allowance for their service on the committee.

G. The board may remove from office a member of the committee for neglect of duties required by the Polysomnography Practice Act, malfeasance in office, incompetence or unprofessional conduct.

§ 61-6B-9. Board; committee; powers and duties

A. The board, with the advice of the committee, shall have powers regarding licensing of polysomnographic technologists, temporary permitting of polysomnographic technicians, approval of polysomnography curricula, approval of degree programs in polysomnography and any other matters that are necessary to ensure the training and licensing of competent polysomnographic technologists.

B. The board, with the advice of the committee, shall hold hearings and adopt rules regarding:

(1) the licensing of polysomnographic technologists, the practice of polysomnography and the minimum qualifications and hours of clinical experience and standards of care required for being licensed as a polysomnographic technologist;

(2) criteria for continuing education requirements;

(3) the manner in which records of examinations and treatments shall be kept and maintained;

(4) professional conduct, ethics and responsibility;

(5) disciplinary actions, including the denial, suspension or revocation of or the imposition of restrictions or conditions on a license, and the circumstances that require disciplinary action;

(6) a means to provide information to all polysomnographic technologists licensed in the state;

(7) the inspection of the business premises of a licensee when the board determines that an inspection is necessary;

(8) the investigation of complaints against licensees or persons holding themselves out as engaging in the practice of polysomnography in the state;

(9) the publication of information for the public about licensees and the practice of polysomnography in the state;

(10) an orderly process for reinstatement of a license;

(11) criteria for acceptance of polysomnography credentials or licenses issued in other jurisdictions;

(12) criteria for advertising or promotional materials; and

(13) any matter necessary to implement the Polysomnography Practice Act.

§ 61-6B-10. Offenses; criminal penalties

A person who engages in the practice of polysomnography without a license is guilty of a misdemeanor and shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.