

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).

History: 1978 Comp., § 61-6-16, enacted by Laws 1989, ch. 269, § 12; 2003, ch. 19, § 16; 2008, ch. 74, § 2.

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 commissioned corps of the United States public health service or the United States department of veterans affairs 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 further 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 that 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 with the supervision of or in collaboration with, a licensed physician, when:

- (1) the physician assistant is currently licensed by the board;
- (2) the act, task or function is performed with the supervision of a licensed physician or in collaboration with 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 or collaborating licensed physician and the acts are within the scope of the physician 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 the person's own self 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 ministration 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 licensed 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.

History: 1953 Comp., § 67-5-10.1, enacted by Laws 1973, ch. 361, § 8; 1978 Comp., § 61-6-16, recompiled as § 61-6-17 by Laws 1989, ch. 269, § 13; 1991, ch. 148, § 4; 1991, ch. 164, § 1;

1993, ch. 158, § 7; 1994, ch. 80, § 8; 1997, ch. 221, § 3; 2000, ch. 44, § 1; 2001, ch. 96, § 5; 2003, ch. 19, § 17; 2017, ch. 103, § 5.

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.

History: 1978 Comp., § 61-6-18, enacted by Laws 1989, ch. 269, § 14; 1994, ch. 80, § 9; 2005, ch. 159, § 5.

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.