

61-6-17. Exceptions to act.

The Medical Practice Act shall not apply to or affect:

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;

16.12.2.7 DEFINITIONS:

A. Definitions beginning with the letter A:

(2) "administration of medications", a process whereby a prescribed drug or biological agent is given to a patient/client by a person licensed or certified by the board to administer medications;

(8) "**assessment**", the review and interpretation by a licensed individual of specific data necessary to determine the patient/client's care and treatment needs; (also see data collection);

D. Definitions beginning with the letter D:

(1) "**data collection**", the process of obtaining information, material, fact or clinical observations which will be used in the assessment process; data collection is not limited to licensed individuals;

M. Definitions beginning with the letter M:

(1) "**medical emergency**", a situation resulting from a disaster in which the number of persons requiring nursing care exceeds the availability of New Mexico registered nurses or licensed practical nurses;

P. Definitions beginning with the letter P:

(7) "**prescriptive authority**", the power to determine the need for drugs, immunizing agents or devices; selecting the remedy and writing a prescription;

16.12.2.12 STANDARDS OF NURSING PRACTICE:

A. The nurse shall maintain individual competence in nursing practice, recognizing and accepting responsibility for individual actions and judgments.

(1) Competent nursing practice requires that the nurse have the knowledge and skills to practice nursing safely and properly in accordance with his/her licensure status and to perform specific functions or procedures required in his/her particular area of practice. Competent nursing practice also requires that the nurse have the knowledge to recognize and respond to any complication(s) which may result from the function or procedure the nurse performs.

C. The nurse shall have knowledge of the laws and rules governing nursing and function within the legal boundaries of nursing practice.

H. Standards for professional registered nursing practice. Registered nurses practice in accordance with the definition of professional registered nursing in the NPA. [61-3-3, J. NMSA 1978].

61-3-3. Definitions.

As used in the Nursing Practice Act:

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

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

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

(1) initiating and maintaining comfort measures;

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

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

(4) collaborating on the health care regimen;

(5) administering medications and performing treatments prescribed by a person authorized in this state or in any other state in the United States to prescribe them;

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

61-3-29. Exceptions.

The Nursing Practice Act shall not apply to or affect:

B. nursing assistance in case of emergencies;

H. *a nursing aide or orderly, unless performing acts defined as professional nursing or practical nursing pursuant to the Nursing Practice Act;*

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

61-6-6. Definitions. (Repealed effective July 1, 2016.)

J. "the practice of medicine" consists of:

(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;

16.10.8.7 DEFINITIONS: Established physician-patient relationship means a relationship between a physician and a patient that is for the purpose of maintaining the patient's well-being. At a minimum, this relationship is established by an interactive encounter between patient and physician involving an appropriate history and physical and/or mental status examination sufficient to make a diagnosis and to provide, prescribe or recommend treatment, with the informed consent from the patient and availability of the physician or coverage for the patient for appropriate follow-up care. A medical record must be generated by the encounter.

16.10.8.8 UNPROFESSIONAL OR DISHONORABLE CONDUCT: As defined in the Medical Practice Act, Section 61-6-15,D,(29), “unprofessional or dishonorable conduct” includes, but is not limited to, the following:

- A.** practicing medicine without an active license;
- B.** sexual misconduct, including sexual contact with patient surrogates, such as parents and legal guardians, that occurs concurrently with the physician-patient relationship;
- C.** violating a narcotic or drug law;
- D.** excessive prescribing or administering of drugs;
- E.** excessive treatment of patients;
- F.** impersonating an applicant in an examination or at a board interview;
- G.** making or signing false documents;
- H.** dishonesty;
- I.** deceptive or anonymous advertising;
- J.** improper use of a fictitious name;
- K.** violation of a term of a stipulation; or
- L.** *prescribing, dispensing or administering drugs or medical supplies to a patient when there is no established physician-patient relationship, including prescribing over the internet or via other electronic means that is based solely on an on-line questionnaire; except for:*
 - (1) physicians and physician assistants on call for another practitioner, or responsible for another practitioner’s patients in an established clinic or office, or acting as locum tenens where a physician-patient relationship has previously been established and documented in the practitioner’s or clinic’s record;*
 - (2) physicians and physician assistants in emergency room or urgent care settings;*
 - (3) prescriptions written to prepare a patient for special examination(s) or laboratory testing;*

(4) *prescribing or dispensing for immunization programs;*
(5) *the provision of treatment for partners of patients with sexually transmitted diseases when this treatment is conducted in accordance with the expedited partner therapy guidelines and protocol published by the New Mexico department of health; and*
(6) *the provision of consultation, recommendation, or treatment during a face-to-face telehealth encounter online, using standard videoconferencing technology, where a medical history and informed consent are obtained and a medical record generated by the practitioner, and a physical examination is:*
(a) *recorded as appropriate by the practitioner, or a practitioner such as a physician, a physician or anesthesiologist assistant, or an advanced practice nurse, with the results communicated to the telehealth practitioner; or*
(b) *waived when a physical examination would not normally be part of a typical physical face-to-face encounter with the patient for the specific services being provided.*

[16.10.8.8 NMAC - Rp 16 NMAC 10.8.8, 7/15/01; A, 1/10/07; A, 9/27/07;

16.10.16.7 DEFINITIONS:

A. "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, license classification, the name and address of the patient, the name of the drug prescribed, direction for use and the date of issue.

61-11-2. Definitions. (Repealed effective July 1, 2016.)

As used in the Pharmacy Act:

A. "administer" means the direct application of a drug to the body of a patient or research subject by injection, inhalation, ingestion or any other means as a result of an order of a licensed practitioner;

P. "licensed practitioner" means a person engaged in a profession licensed by any state, territory or possession of the United States who, within the limits of his license, may lawfully prescribe, dispense or administer drugs for the treatment of a patient's condition;

CC. "prescription" means an order given individually for the person for whom prescribed, either directly from a licensed practitioner or his agent to the pharmacist, including electronic transmission or indirectly by means of a written order signed by the prescriber, that bears the name and address of the prescriber, his license classification, the name and address of the patient, the name and quantity of the drug prescribed, directions for use and the date of issue;

16.19.24.7 DEFINITIONS: All terms defined in the Pharmacy Act or elsewhere in the Board regulations shall have the same meanings in this regulation unless otherwise defined as follows:

A. "Emergency Medical Service" or "EMS" refers to an organization which: transports patients and/or in which patient care is delivered off-site primarily by mobile units in which one or more licensed practitioners assesses or diagnose and treat patients; and in which drugs are stored, distributed, dispensed, or administered for patient treatment.

B. "In Use" means when dangerous drugs and controlled substances are removed from the principle place of business' stored inventory and placed in jump kits or mobile units for emergency use.

C. "Jump Kit" means portable carrying devices that contain emergency medical supplies and drugs.

D. "Location" refers to any sites which are part of the EMS's operations, including its headquarters, stations, vehicle bays, docks, or hangers. This can include the mobile units or the practitioner's jump kits.

E. "Medical Director" means a physician who is responsible for all aspects of patient care of an EMS as defined in NMSA 24 10 B(3).

F. "Mobile Unit" means to a vehicle such as an ambulance, rescue or fire truck; boat or ship; or aircraft.

G. "Practitioner" refers to a licensee under the laws and regulations who is an employee or contractee of an EMS and is authorized to assess or diagnose patients, and to dispense drugs for emergency treatment. They may include physicians, physician's assistants, nurses, and/or emergency medical technicians/paramedics.

H. "Principle Place of Business" refers to any site's which are part of the EMS's operations, including its headquarters, stations, vehicle bays, docks, or hangars where dangerous drugs and/or controlled substances are stored, but does not include dangerous drugs or controlled substances "in use".

TITLE 7 HEALTH

CHAPTER 27 EMERGENCY MEDICAL SERVICES

PART 2 LICENSING OF EMERGENCY MEDICAL SERVICES PERSONNEL

7.27.2.1 **ISSUING AGENCY:** New Mexico Department of Health, Epidemiology and Response Division, Emergency Medical Systems Bureau.

[7.27.2.1 NMAC - Rp, 7.27.2.1 NMAC, 10/30/2012]

7.27.2.2 **SCOPE:** These rules apply to New Mexico emergency medical services, including the service directors and medical directors of those services; approved New Mexico EMS training programs and graduates of approved New Mexico EMS training programs; New Mexico licensed EMS personnel including those previously licensed; persons trained, certified or licensed in another state or territory seeking to acquire licensure in New Mexico; EMS licensing commission; national registry of emergency medical technicians; and any other entity associated with the licensing of emergency medical services personnel in New Mexico.

[7.27.2.2 NMAC - Rp, 7.27.2.2 NMAC, 10/30/2012]

7.27.2.7 DEFINITIONS

SS. "Protocol" means a predetermined, written medical care plan approved by the medical director and includes standing orders.

TT. "Provider" means a person who has been licensed by the department to provide patient care pursuant to the Emergency Medical Services Act.

BBB. "Standing orders" means strictly defined written orders for actions, techniques or drug administration, signed by the medical director, to be utilized when communication has not been made with an on-line medical control physician.