



April 24, 2020

Re: Guidance on the Board of Nursing's Role in the Provision of Nursing Assistance by Out of State Nurses during COVID-19 State of Emergency

To Whom It May Concern:

The New Mexico Board of Nursing (hereinafter the "Board") continues to monitor the current COVID-19 pandemic so as to assist the public and other state agencies in addressing the state of emergency. To that end, in my capacity as the Executive Director of the Board, I am issuing the following guidance on the role of the Board over the issue of whether out of state nurses may provide nursing assistance and services in New Mexico through the duration of the current pandemic.

In responding to the COVID-19 pandemic, the State of New Mexico will likely need to avail itself of all available resources and aid, including in the area of providing nursing assistance and services in our hospitals and health care centers. To that end, the authority of the Board of Nursing is set forth and limited by the Nursing Practice Act, NMSA 1978, Sections 61-3-1 to -30 (1968, as amended through 2018), which, in relevant part, expressly provides that it does not apply to "nursing assistance in case of emergencies." Section 61-3-29(B). Although the Board's rules have clarified this exception in the context of discrete disasters of a duration of less than thirty days, the exception in the Nursing Practice Act is broader in scope and clearly applicable to the current COVID-19 emergency as declared by the Governor. As a result, ***out of state nurses are not required to obtain a license issued by the Board in order to provide nursing assistance and services in New Mexico for the duration of the COVID-19 emergency.*** (For the same reason, the Board does not and cannot issue temporary emergency licenses, although the Board does regularly issue temporary licenses in other circumstances.)

Although it is the position of the Board that out of state nurses are not required to obtain a license issued by the Board in order to provide services during the COVID-19 emergency, please understand that this guidance does not limit the applicability of other laws or regulations issued by other governmental entities. To that end, this guidance does not speak to the authority of other governmental entities such as the Department of Health and the Department of Homeland Security and Emergency Management.

The Board will continue to evaluate and consider all options to facilitate the provision of nursing services during the COVID-19 pandemic, pursuant to the leadership and direction of Governor Michelle Lujan Grisham. Therefore, either I or the Board may supplement this guidance as the circumstances warrant. We may also issue subsequent guidance on other issues to the public and licensees as may be appropriate.

Sincerely,

A handwritten signature in black ink that reads "Sasha N. Poole". The signature is fluid and cursive, with a small flourish at the end.

Sasha N. Poole, PhD, RN
Executive Director
New Mexico Board of Nursing