

New Mexico Nurse Practitioners Council Conference
April 2013

Handout from Deborah A. Solove

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

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

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

B. Certified nurse practitioners may:

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

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

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

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

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

TEN COMMAMDMENTS

1. Be prepared.
2. Cooperate with your lawyer.
3. Use your medical records and know them.
4. Keep your presentation simple.
5. Do not be defensive.
6. Answer the question asked.
7. Listen carefully and think before answering.
8. Review medical literature and standards of your organization before testifying.
9. Review other health care provider records before testifying.
10. Do not go out on a limb.

PREPARING FOR YOUR DEPOSITION

A. WHY DOES THE PLAINTIFF'S ATTORNEY WANT TO DEPOSE YOU?

1. To learn facts
 - a. Details of your treatment
 - b. Names of potential witnesses
 - c. Names of potential defendants
2. To obtain admissions
 - a. Authenticity of medical records
 - b. Elements of Plaintiff's claim
3. To learn your theory of defense
4. To get you pinned down
5. To get impeachment material to use against you at trial
6. To evaluate your credibility and observe your demeanor

B. PREPARING FOR YOUR DEPOSITION

1. Set aside adequate time
 - a. Meet well ahead of deposition
 - b. Meet somewhere where there will be no distractions
 - c. Be prepared to meet multiple times if necessary
2. Know the pertinent records **cold**
 - a. Your records – plaintiff's entire chart
 - b. Other physicians' records
 - c. Any other records likely to be used at the deposition

3. Understand the plaintiff's theories
 - a. Complaint
 - b. Plaintiff's answers to interrogatories
 - c. Plaintiff's deposition
 - d. Expert reports or depositions
 - e. Play the Devil's Advocate

4. Understand your theory of defense
 - a. Answer
 - b. Your answers to interrogatories
 - c. Panel testimony
 - d. Medical literature

5. Learn about your opponent
 - a. Depositions of other defendants
 - b. Ask your colleagues
 - c. Observe in trial

6. Be totally honest with your attorney
 - a. Controversial treatment
 - b. Adverse medical literature
 - c. Peer review

7. Expect and rehearse your answers to:
 - a. Specific questions
 - 1) "Why didn't you order a CBC on...?"
 - 2) "Describe how you applied the splint."

 - b. Broad questions
 - 1) "What does the standard of care call for if a patient comes in complaining of chest pain?"
 - 2) "What is the differential diagnosis for stomach pain, from most serious to least serious?"

 - c. Embarrassing questions
 - 1) Prior lawsuits
 - 2) Credentialing problems
 - 3) Drug/alcohol problems

8. If you are concerned about whether a topic will come up, or how to deal with it if it does come up, tell your attorney.
 - a. Stipulation
 - b. Motion for Protective Order
 - c. Help you prepare answer

9. Be sure you are mentally and physically ready to go
 - a. Comfortable with issues, defense
 - b. Well rested
 - c. No distractions
 - d. Am I ready as I would want to be if this were the trial?