SENATE BILL 279

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Bill B. O'Neill

AN ACT

RELATING TO LICENSING; REPEALING THE OSTEOPATHIC MEDICINE ACT; AMENDING THE MEDICAL BOARD ACT TO EXERCISE AUTHORITY OVER OSTEOPATHIC PHYSICIANS AND OSTEOPATHIC PHYSICIAN ASSISTANTS; INCREASING CERTAIN FEES; TRANSFERRING FUNCTIONS, PERSONNEL, MONEY, APPROPRIATIONS, RECORDS, FURNITURE, EQUIPMENT, SUPPLIES AND OTHER PROPERTY FROM THE BOARD OF OSTEOPATHIC MEDICINE TO THE NEW MEXICO MEDICAL BOARD.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-9-77.1 NMSA 1978 (being Laws 1998, Chapter 96, Section 1, as amended) is amended to read:

"7-9-77.1. DEDUCTION--GROSS RECEIPTS TAX--CERTAIN MEDICAL AND HEALTH CARE SERVICES.--

A. Receipts of a health care practitioner from payments by the United States government or any agency thereof

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for provision of medical and other health services by a health care practitioner or of medical or other health and palliative services by hospices or nursing homes to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

B. Receipts of a health care practitioner from payments by a third-party administrator of the federal TRICARE program for provision of medical and other health services by medical doctors and osteopathic physicians to covered beneficiaries may be deducted from gross receipts.

C. Receipts of a health care practitioner from payments by or on behalf of the Indian health service of the United States department of health and human services for provision of medical and other health services by medical doctors and osteopathic physicians to covered beneficiaries may be deducted from gross receipts.

D. Receipts of a clinical laboratory from payments by the United States government or any agency thereof for medical services provided by the clinical laboratory to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

E. Receipts of a home health agency from payments by the United States government or any agency thereof for medical, other health and palliative services provided by the

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home health agency to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

F. Prior to July 1, 2024, receipts of a dialysis facility from payments by the United States government or any agency thereof for medical and other health services provided by the dialysis facility to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

G. A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction separately in a manner required by the department. A taxpayer who has receipts that are deductible pursuant to this section and Section 7-9-93 NMSA 1978 shall deduct the receipts under this section prior to calculating the receipts that may be deducted pursuant to Section 7-9-93 NMSA 1978.

H. The department shall compile an annual report on the deductions created pursuant to this section that shall include the number of taxpayers approved by the department to receive each deduction, the aggregate amount of deductions approved and any other information necessary to evaluate the effectiveness of the deductions. The department shall compile and present the annual reports to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the deductions and

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whether the deductions are providing a benefit to the state.

I. For the purposes of this section:

(1) "clinical laboratory" means a laboratory accredited pursuant to 42 USCA 263a;

(2) "dialysis facility" means an end-stage renal disease facility as defined pursuant to 42 C.F.R. 405.2102;

(3) "health care practitioner" means:

(a) an athletic trainer licensed pursuant to the Athletic Trainer Practice Act;

(b) an audiologist licensed pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

(c) a chiropractic physician licensed pursuant to the Chiropractic Physician Practice Act;

(d) a counselor or therapist practitioner licensed pursuant to the Counseling and Therapy Practice Act;

(e) a dentist licensed pursuant to the Dental Health Care Act;

(f) a doctor of oriental medicine licensed pursuant to the Acupuncture and Oriental Medicine Practice Act;

(g) an independent social worker licensed pursuant to the Social Work Practice Act;

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(h) a massage therapist licensed pursuant to the Massage Therapy Practice Act;

(i) a naprapath licensed pursuant to the Naprapathic Practice Act;

(j) a nutritionist or dietitian licensed pursuant to the Nutrition and Dietetics Practice Act;

(k) an occupational therapist licensed pursuant to the Occupational Therapy Act;

(l) an optometrist licensed pursuant to the Optometry Act;

(m) an osteopathic physician licensed pursuant to the [~~Osteopathic Medicine~~] Medical Practice Act;

(n) a pharmacist licensed pursuant to the Pharmacy Act;

(o) a physical therapist licensed pursuant to the Physical Therapy Act;

(p) a physician licensed pursuant to the Medical Practice Act;

(q) a podiatrist licensed pursuant to the Podiatry Act;

(r) a psychologist licensed pursuant to the Professional Psychologist Act;

(s) a radiologic technologist licensed pursuant to the Medical Imaging and Radiation Therapy Health and Safety Act;

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(t) a registered nurse licensed pursuant to the Nursing Practice Act;

(u) a respiratory care practitioner licensed pursuant to the Respiratory Care Act; and

(v) a speech-language pathologist licensed pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

(4) "home health agency" means a for-profit entity that is licensed by the department of health and certified by the federal centers for medicare and medicaid services as a home health agency and certified to provide medicare services;

(5) "hospice" means a for-profit entity licensed by the department of health as a hospice and certified to provide medicare services;

(6) "nursing home" means a for-profit entity licensed by the department of health as a nursing home and certified to provide medicare services; and

(7) "TRICARE program" means the program defined in 10 U.S.C. 1072(7)."

SECTION 2. Section 13-7-23 NMSA 1978 (being Laws 2020, Chapter 58, Section 1) is amended to read:

"13-7-23. PHARMACIST PRESCRIPTIVE AUTHORITY SERVICES--REIMBURSEMENT PARITY.--A group health plan shall reimburse a participating provider that is a certified pharmacist clinician

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or pharmacist certified to provide a prescriptive authority service who provides a service at the standard contracted rate that the group health plan reimburses, for the same service under that group health plan, any licensed physician or physician assistant licensed pursuant to the Medical Practice Act [~~or the Osteopathic Medicine Act~~] or any advanced practice certified nurse practitioner licensed pursuant to the Nursing Practice Act."

SECTION 3. Section 21-22D-3 NMSA 1978 (being Laws 1995, Chapter 144, Section 18, as amended) is amended to read:

"21-22D-3. DEFINITIONS.--As used in the Health Professional Loan Repayment Act:

A. "department" means the higher education department;

B. "health professional" means a primary care physician, optometrist, podiatrist, physician's assistant, dentist, nurse, member of an allied health profession as defined in the Allied Health Student Loan for Service Act or a licensed or certified health professional as determined by the department;

C. "loan" means a grant of money to defray the costs incidental to a health education, under a contract between the federal government or a commercial lender and a health professional, requiring either repayment of principal and interest or repayment in services;

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D. "nurse in advanced practice" means a registered nurse, including a:

(1) certified nurse practitioner, certified registered nurse anesthetist or clinical nurse specialist, authorized pursuant to the Nursing Practice Act to function beyond the scope of practice of professional registered nursing; or

(2) certified nurse-midwife licensed by the department of health; and

E. "osteopathic primary care physician" means an osteopathic physician licensed pursuant to the [~~Osteopathic Medicine~~] Medical Practice Act with specialty training in family medicine, general internal medicine, obstetrics, gynecology or general pediatrics."

SECTION 4. Section 21-22D-12 NMSA 1978 (being Laws 2019, Chapter 68, Section 2) is amended to read:

"21-22D-12. OSTEOPATHIC PHYSICIAN EXCELLENCE FUND.--The department shall apply funds appropriated to the department from the osteopathic physician excellence fund established pursuant to Section [~~3 of this 2019 act~~] 21-22D-13 NMSA 1978 exclusively for health professional loan repayment assistance for osteopathic primary care physicians who are licensed pursuant to the [~~Osteopathic Medicine~~] Medical Practice Act and who practice in areas of New Mexico that the department has designated as underserved."

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SECTION 5. Section 21-26-4 NMSA 1978 (being Laws 1983, Chapter 195, Section 4) is amended to read:

"21-26-4. INTERN PROGRAM--[~~BOARD~~] HIGHER EDUCATION DEPARTMENT CONTRACT--REGULATIONS.--The [~~board~~] higher education department shall:

A. in cooperation with the hospitals and the New Mexico medical board [~~of osteopathic medical examiners~~], develop an intern training program to provide postdoctoral training for osteopathic interns;

B. contract with hospitals to provide intern training programs; and

C. promulgate regulations to carry out the provisions of the Osteopathic Intern Act, including program requirements, distribution of training funds and matching fund and financial accountability requirements of hospitals receiving intern training funds; provided, however, for the purposes of this subsection, "matching funds" may include the provision of in-kind services. Regulations of the [~~board~~] department shall be filed in accordance with the State Rules Act."

SECTION 6. Section 22-13-31 NMSA 1978 (being Laws 2010, Chapter 96, Section 1, as amended) is amended to read:

"22-13-31. BRAIN INJURY--PROTOCOLS TO BE USED BY COACHES FOR BRAIN INJURIES RECEIVED BY STUDENTS IN SCHOOL ATHLETIC ACTIVITIES--TRAINING OF COACHES AND STUDENT ATHLETES--

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INFORMATION TO BE PROVIDED TO COACHES, STUDENT ATHLETES AND STUDENT ATHLETES' PARENTS OR GUARDIANS--REQUIRING ACKNOWLEDGMENT OF TRAINING AND INFORMATION--NONSCHOLASTIC YOUTH ATHLETIC ACTIVITY ON SCHOOL DISTRICT PROPERTY--BRAIN INJURY PROTOCOL COMPLIANCE--CERTIFICATION.--

A. A coach shall not allow a student athlete to participate in a school athletic activity on the same day that the student athlete:

(1) exhibits signs, symptoms or behaviors consistent with a brain injury after a coach, a school official or a student athlete reports, observes or suspects that a student athlete exhibiting these signs, symptoms or behaviors has sustained a brain injury; or

(2) has been diagnosed with a brain injury.

B. A coach may allow a student athlete who has been prohibited from participating in a school athletic activity pursuant to Subsection A of this section to participate in a school athletic activity no sooner than two hundred forty hours from the hour in which the student athlete received a brain injury and only after the student athlete:

(1) no longer exhibits any sign, symptom or behavior consistent with a brain injury; and

(2) receives a written medical release from a licensed health care professional.

C. Each school district shall ensure that each

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coach participating in school athletic activities and each student athlete in the school district receives training provided pursuant to Paragraph (1) of Subsection D of this section.

D. The New Mexico activities association shall consult with the brain injury advisory council and school districts to promulgate rules to establish:

(1) protocols and content consistent with current medical knowledge for training each coach participating in school athletic activities and each student athlete to:

(a) understand the nature and risk of brain injury associated with athletic activity;

(b) recognize signs, symptoms or behaviors consistent with a brain injury when a coach or student athlete suspects or observes that a student athlete has received a brain injury;

(c) understand the need to alert appropriate medical professionals for urgent diagnosis or treatment; and

(d) understand the need to follow medical direction for proper medical protocols; and

(2) the nature and content of brain injury training and information forms and educational materials for, and the means of providing these forms and materials to, coaches, student athletes and student athletes' parents or

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guardians regarding the nature and risk of brain injury resulting from athletic activity, including the risk of continuing or returning to athletic activity after a brain injury.

E. At the beginning of each academic year or the first participation in school athletic activities by a student athlete during an academic year, a school district shall provide a brain injury training and information form created pursuant to Subsection D of this section to a student athlete and the student athlete's parent or guardian. The school district shall receive signatures on the brain injury training and information form from the student athlete and the student athlete's parent or guardian confirming that the student athlete has received the brain injury training required by this section and that the student athlete and parent or guardian understand the brain injury information before permitting the student athlete to begin or continue participating in school athletic activities for that academic year. The form required by this subsection may be contained on the student athlete sport physical form.

F. As a condition of permitting nonscholastic youth athletic activity to take place on school district property, the superintendent of a school district shall require the person offering the nonscholastic youth athletic activity to sign a certification that the nonscholastic youth athletic

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activity will follow the brain injury protocols established pursuant to Section 22-13-31.1 NMSA 1978.

G. As used in this section:

(1) "academic year" means any consecutive period of two semesters, three quarters or other comparable units commencing with the fall term each year;

(2) "brain injury" means a body-altering physical trauma to the brain, skull or neck caused by, but not limited to, blunt or penetrating force, concussion, diffuse axonal injury, hypoxia-anoxia or electrical charge;

(3) "licensed health care professional" means:

(a) a practicing physician or physician assistant licensed pursuant to the Medical Practice Act;

(b) a practicing osteopathic physician licensed pursuant to the [~~Osteopathic Medicine~~] Medical Practice Act;

(c) a practicing certified nurse practitioner licensed pursuant to the Nursing Practice Act;

(d) a practicing osteopathic [~~physician's~~] physician assistant licensed pursuant to the [~~Osteopathic Medicine~~] Medical Practice Act;

(e) a practicing psychologist licensed pursuant to the provisions of the Professional Psychologist Act;

(f) a practicing athletic trainer

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licensed pursuant to the provisions of the Athletic Trainer Practice Act; or

(g) a practicing physical therapist licensed pursuant to the Physical Therapy Act;

(4) "nonscholastic youth athletic activity" means an organized athletic activity in which the participants, a majority of whom are under nineteen years of age, are engaged in an athletic game or competition against another team, club or entity, or in practice or preparation for an organized athletic game or competition against another team, club or entity. "Nonscholastic youth athletic activity" does not include an elementary school, middle school, high school, college or university activity or an activity that is incidental to a nonathletic program;

(5) "school athletic activity" means a sanctioned middle school, junior high school or senior high school function that the New Mexico activities association regulates; and

(6) "student athlete" means a middle school, junior high school or senior high school student who engages in, is eligible to engage in or seeks to engage in a school athletic activity."

SECTION 7. Section 22-13-31.1 NMSA 1978 (being Laws 2016, Chapter 53, Section 2, as amended) is amended to read:

"22-13-31.1. BRAIN INJURY--PROTOCOLS--TRAINING OF

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COACHES--BRAIN INJURY EDUCATION.--

A. A coach shall not allow a youth athlete to participate in a youth athletic activity on the same day that the youth athlete:

(1) exhibits signs, symptoms or behaviors consistent with a brain injury after a coach, a league official or a youth athlete reports, observes or suspects that a youth athlete exhibiting these signs, symptoms or behaviors has sustained a brain injury; or

(2) has been diagnosed with a brain injury.

B. A coach may allow a youth athlete who has been prohibited from participating in a youth athletic activity pursuant to Subsection A of this section to participate in a youth athletic activity no sooner than two hundred forty hours from the hour in which the youth athlete received a brain injury and only after the youth athlete:

(1) no longer exhibits any sign, symptom or behavior consistent with a brain injury; and

(2) receives a written medical release from a licensed health care professional.

C. Each youth athletic league shall ensure that each coach participating in youth athletic activities and each youth athlete in the league receives training provided pursuant to Paragraph (1) of Subsection D of this section.

D. The department of health shall consult with the

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brain injury advisory council to promulgate rules to establish:

(1) protocols and content consistent with current medical knowledge for training each coach participating in youth athletic activities and each youth athlete to:

(a) understand the nature and risk of brain injury associated with youth athletic activity;

(b) recognize signs, symptoms or behaviors consistent with a brain injury when a coach or youth athlete suspects or observes that a youth athlete has received a brain injury;

(c) understand the need to alert appropriate medical professionals for urgent diagnosis or treatment; and

(d) understand the need to follow medical direction for proper medical protocols; and

(2) the nature and content of brain injury training and information forms and educational materials for, and the means of providing these forms and materials to, coaches, youth athletes and youth athletes' parents or guardians regarding the nature and risk of brain injury resulting from youth athletic activity, including the risk of continuing or returning to youth athletic activity after a brain injury.

E. At the beginning of each youth athletic activity season or the first participation in youth athletic activities

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by a youth athlete during a youth athletic activity season, a youth athletic league shall provide a brain injury training and information form created pursuant to Subsection D of this section to a youth athlete and the youth athlete's parent or guardian. The youth athletic league shall receive signatures on the brain injury training and information form from the youth athlete and the youth athlete's parent or guardian confirming that the youth athlete has received the brain injury training required by this section and that the youth athlete and parent or guardian understand the brain injury information before permitting the youth athlete to begin or continue participating in youth athletic activities for the athletic season or term of participation.

F. As used in this section:

(1) "brain injury" means a body-altering physical trauma to the brain, skull or neck caused by blunt or penetrating force, concussion, diffuse axonal injury, hypoxia-anoxia or electrical charge;

(2) "licensed health care professional" means:

(a) a practicing physician or physician assistant licensed pursuant to the Medical Practice Act;

(b) a practicing osteopathic physician licensed pursuant to the [~~Osteopathic Medicine~~] Medical Practice Act;

(c) a practicing certified nurse

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practitioner licensed pursuant to the Nursing Practice Act;

(d) a practicing osteopathic [~~physician's~~] physician assistant licensed pursuant to the [~~Osteopathic Medicine~~] Medical Practice Act;

(e) a practicing psychologist licensed pursuant to the provisions of the Professional Psychologist Act;

(f) a practicing athletic trainer licensed pursuant to the provisions of the Athletic Trainer Practice Act; or

(g) a practicing physical therapist licensed pursuant to the provisions of the Physical Therapy Act;

(3) "youth athlete" means an individual under nineteen years of age who engages in, is eligible to engage in or seeks to engage in a youth athletic activity; and

(4) "youth athletic activity" means an organized athletic activity in which the participants, a majority of whom are under nineteen years of age, are engaged in an athletic game or competition against another team, club or entity, or in practice or preparation for an organized athletic game or competition against another team, club or entity. "Youth athletic activity" does not include an elementary school, middle school, high school, college or university activity or an activity that is incidental to a

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nonathletic program."

SECTION 8. Section 24-2D-5.2 NMSA 1978 (being Laws 2005, Chapter 140, Section 3, as amended) is amended to read:

"24-2D-5.2. OVERDOSE PREVENTION AND PAIN MANAGEMENT ADVISORY COUNCIL CREATED--DUTIES.--

A. The "overdose prevention and pain management advisory council" is created and shall be administratively attached to the department of health. Members of the council shall be appointed by the governor to consist of one representative each from the department of health, the human services department, the department of public safety, the New Mexico medical board, the board of nursing, the board of pharmacy, [~~the board of osteopathic medicine~~] the board of acupuncture and oriental medicine, the New Mexico board of dental health care, the chiropractic board, the university of New Mexico health sciences center, a harm reduction organization, a third-party payer, a statewide medical association, a statewide association of pharmacists, a statewide association of nurse practitioners, a statewide association of certified registered nurse anesthetists and a statewide association of osteopathic physicians; one person who is a pain management specialist; one person who is an addiction specialist; one person who is a consumer health care advocate; and one person who has no direct ties or pecuniary interest in the health care field.

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B. The council shall meet at least quarterly to review the current status of overdose prevention and current pain management practices in New Mexico and national overdose prevention and pain management standards and educational efforts for both consumers and professionals. The council shall also make recommendations regarding overdose prevention and pain management practices. The council may create subcommittees as needed. Members who are not public employees shall receive per diem and mileage as provided in the Per Diem and Mileage Act. Public employee members shall receive mileage from their respective employers for attendance at council meetings."

SECTION 9. Section 24-14C-2 NMSA 1978 (being Laws 2011, Chapter 152, Section 2, as amended) is amended to read:

"24-14C-2. DEFINITIONS.--As used in the Health Care Work Force Data Collection, Analysis and Policy Act:

A. "board" means any state health care work force licensing or regulatory board, including the New Mexico medical board; [~~the board of osteopathic medical examiners;~~] the New Mexico board of dental health care; the board of nursing; the board of pharmacy; any other licensing or regulatory board that the chancellor designates; any other health professional licensing board listed in Chapter 61 NMSA 1978; and the university;

B. "chancellor" means the chancellor for health

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sciences of the university of New Mexico;

C. "database" means the health care work force database created pursuant to the Health Care Work Force Data Collection, Analysis and Policy Act;

D. "ethnicity" means an individual's self-identification or affiliation as either "Hispanic or Latino" or "not Hispanic or Latino" according to cultural, historical, linguistic or religious ties;

E. "New Mexico center for health care workforce analysis" means a state entity that collects, analyzes and reports data regarding the state's health care work force and collaborates with the federal national center for health care workforce analysis pursuant to Section 5103 of the federal Patient Protection and Affordable Care Act;

F. "race" means an individual's self-identification or affiliation with one of the following categories used to identify individuals according to historical or phenotypical characteristics:

(1) American Indian or Alaska Native;

(2) Asian;

(3) Black or African American;

(4) Native Hawaiian or other Pacific Islander;

(5) White; or

(6) a mixture of any of the categories listed in Paragraphs (1) through (5) of this subsection; and

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G. "university" means the university of New Mexico."

SECTION 10. Section 27-2-12.30 NMSA 1978 (being Laws 2020, Chapter 58, Section 2) is amended to read:

"27-2-12.30. PHARMACIST PRESCRIPTIVE AUTHORITY SERVICES--REIMBURSEMENT PARITY.--A medical assistance program or its contractor shall reimburse a participating provider that is a certified pharmacist clinician or pharmacist certified to provide a prescriptive authority service who provides a service at the standard contracted rate that the medical assistance program reimburses, for the same service under that program, any licensed physician or physician assistant licensed pursuant to the Medical Practice Act [~~or the Osteopathic Medicine Act~~] or any advanced practice certified nurse practitioner licensed pursuant to the Nursing Practice Act."

SECTION 11. Section 59A-22-53.2 NMSA 1978 (being Laws 2020, Chapter 58, Section 3) is amended to read:

"59A-22-53.2. PHARMACIST PRESCRIPTIVE AUTHORITY SERVICES--REIMBURSEMENT PARITY.--An insurer shall reimburse a participating provider that is a certified pharmacist clinician or pharmacist certified to provide a prescriptive authority service who provides a service pursuant to a health insurance plan, policy or certificate of health insurance at the standard contracted rate that the health insurance policy, health care plan or certificate of health insurance reimburses, for the

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same service pursuant to that policy, plan or certificate, any licensed physician or physician assistant licensed pursuant to the Medical Practice Act [~~or the Osteopathic Medicine Act~~] or any advanced practice certified nurse practitioner licensed pursuant to the Nursing Practice Act."

SECTION 12. Section 59A-23-12.2 NMSA 1978 (being Laws 2020, Chapter 58, Section 4) is amended to read:

"59A-23-12.2. PHARMACIST PRESCRIPTIVE AUTHORITY SERVICES--REIMBURSEMENT PARITY.--An insurer shall reimburse a participating provider that is a certified pharmacist clinician or pharmacist certified to provide a prescriptive authority service who provides a service pursuant to a health insurance plan, policy or certificate of health insurance at the standard contracted rate that the health insurance policy, health care plan or certificate of health insurance reimburses, for the same service pursuant to that policy, plan or certificate, any licensed physician or physician assistant licensed pursuant to the Medical Practice Act [~~or the Osteopathic Medicine Act~~] or any advanced practice certified nurse practitioner licensed pursuant to the Nursing Practice Act."

SECTION 13. Section 59A-46-52.2 NMSA 1978 (being Laws 2020, Chapter 58, Section 5) is amended to read:

"59A-46-52.2. PHARMACIST PRESCRIPTIVE AUTHORITY SERVICES--REIMBURSEMENT PARITY.--A carrier shall reimburse a participating provider that is a certified pharmacist clinician

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or pharmacist certified to provide a prescriptive authority service who provides a service pursuant to an individual or group contract at the standard contracted rate that the carrier reimburses, for the same service under that individual or group contract, any licensed physician or physician assistant licensed pursuant to the Medical Practice Act [~~or the Osteopathic Medicine Act~~] or any advanced practice certified nurse practitioner licensed pursuant to the Nursing Practice Act."

SECTION 14. Section 59A-47-47.2 NMSA 1978 (being Laws 2020, Chapter 58, Section 6) is amended to read:

"59A-47-47.2. PHARMACIST PRESCRIPTIVE AUTHORITY SERVICES--REIMBURSEMENT PARITY.--A health care plan shall reimburse a participating provider that is a certified pharmacist clinician or pharmacist certified to provide a prescriptive authority service who provides a service pursuant to a subscriber at the same rate that the carrier reimburses, for the standard contracted service under that subscriber contract, any licensed physician or physician assistant licensed pursuant to the Medical Practice Act [~~or the Osteopathic Medicine Act~~] or any advanced practice certified nurse practitioner licensed pursuant to the Nursing Practice Act."

SECTION 15. Section 61-2-14.1 NMSA 1978 (being Laws 2019, Chapter 15, Section 1) is amended to read:

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"61-2-14.1. CONTACT LENSES--SPECTACLES--LIMITATIONS ON PRESCRIPTIONS--CRIMINAL PENALTY--CIVIL REMEDY--EXCEPTIONS.--

A. Unless the person is licensed pursuant to the Optometry Act or the Medical Practice Act [~~or the Osteopathic Medicine Act~~], a person shall not:

(1) perform an eye examination on an individual physically located in the state at the time of the eye examination; or

(2) write a prescription for contact lenses or spectacles.

B. A person shall not write a prescription for contact lenses or spectacles unless an eye examination is performed before writing the prescription. The prescription shall take into consideration any medical findings and any refractive error determined during the eye examination.

C. A person who violates a provision of this section is guilty of a misdemeanor and shall be sentenced pursuant to Section 31-19-1 NMSA 1978.

D. The board of optometry, the New Mexico medical board [~~the board of osteopathic medicine~~] or any other person potentially aggrieved by a violation of this section may bring a suit in a court of competent jurisdiction to enjoin a violation of a provision of this section.

E. Nothing in this section shall be construed to prohibit:

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(1) a health care provider from using telehealth in accordance with the provisions of the New Mexico Telehealth Act for ocular diseases;

(2) a vision screening performed in a school by a nurse, physician assistant, osteopathic physician assistant or another provider otherwise authorized pursuant to state law;

(3) an optician from completing a prescription for spectacles or contact lenses in accordance with the provisions of the Optometry Act;

(4) a technician from providing an eye care screening program at a health fair, not-for-profit event, not-for-profit public vision van service, public health event or other similar event;

(5) a physician assistant licensed pursuant to the Medical Practice Act, or an osteopathic physician assistant licensed pursuant to the [~~Osteopathic Medicine~~] Medical Practice Act, working under the supervision of an ophthalmologist licensed pursuant to the Medical Practice Act [~~or the Osteopathic Medicine Act~~], from performing an eye examination on an individual physically located in the state at the time of the eye examination; or

(6) a vision screening performed by another provider otherwise authorized pursuant to state law.

F. As used in this section:

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(1) "autorefractor" means any electronic computer or automated testing device used remotely, in person or through any other communication interface to provide an objective or subjective measurement of an individual's refractive error;

(2) "contact lens" means any lens placed directly on the surface of the eye, regardless of whether or not it is intended to correct a visual defect, including any cosmetic, therapeutic or corrective lens;

(3) "eye examination" means an in-person assessment at a physician's office or an optometrist's office, in a hospital setting or in a hospital health system setting that:

(a) is performed in accordance with the applicable standard of care;

(b) consists of an assessment of the ocular health and visual status of an individual;

(c) does not consist of solely objective or subjective refractive data or information generated by an automated testing device, including an autorefractor or kiosk, in order to establish a medical diagnosis or for the determination of refractive error; and

(d) is performed on an individual who is physically located in this state at the time of the assessment;

(4) "kiosk" means any automatic or electronic

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equipment, application or computer software designed to be used on a telephone, teleconference device, computer, virtual reality device or internet-based device that can be used remotely, in person or through any other communication interface to conduct an eye examination or determine refractive error;

(5) "prescription" means an optometrist's or ophthalmologist's handwritten or electronic order for spectacle lenses or contact lenses based on an eye examination that corrects refractive error; and

(6) "spectacles" means an optical instrument or device worn or used by an individual that has one or more lenses designed to correct or enhance vision addressing the visual needs of the individual wearer, commonly known as "glasses" or "eyeglasses", including spectacles that may be adjusted by the wearer to achieve different types of visual correction or enhancement. "Spectacles" does not mean:

(a) an optical instrument or device that is not intended to correct or enhance vision or that does not require consideration of the visual status of the individual who will use the optical instrument or device; or

(b) eyewear that is sold without a prescription."

SECTION 16. Section 61-6-1 NMSA 1978 (being Laws 1989, Chapter 269, Section 1, as amended) is amended to read:

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"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 health care practitioners, including 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."

SECTION 17. Section 61-6-2 NMSA 1978 (being Laws 1923, Chapter 44, Section 1, as amended) is amended to read:

"61-6-2. NEW MEXICO MEDICAL BOARD--APPOINTMENT--TERMS--QUALIFICATIONS.--

A. There is created the "New Mexico medical board", consisting of [~~nine~~] eleven members. The board shall be composed of two public members, one physician assistant, two

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reputable osteopathic physicians and six reputable medical physicians. The two osteopathic physicians and six medical physicians shall be of known ability, [~~who are~~] shall be graduates of medical colleges or schools in good standing and [~~who~~] shall 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~~] as a health care practitioner over which the board has licensure authority and shall have no significant financial interest, direct or indirect, in the occupation regulated.

B. The governor shall appoint the medical 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 medical physicians for each medical physician member to be appointed. Medical physician member vacancies shall be filled in the same manner.

C. The governor shall appoint osteopathic physician members from a list of names submitted to the governor by the New Mexico osteopathic medical association or its authorized

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governing body or council. The list shall contain five names of qualified osteopathic physicians for each osteopathic physician member to be appointed. Osteopathic physician member vacancies shall be filled in the same manner.

[~~C.~~] D. 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.~~] E. 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.~~] F. 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."

SECTION 18. Section 61-6-3 NMSA 1978 (being Laws 1989, Chapter 269, Section 3, as amended) is amended to read:

"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~~] and shall elect officers.

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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."

SECTION 19. Section 61-6-4 NMSA 1978 (being Laws 1989, Chapter 269, Section 4, as amended) is amended to read:

"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 be a physician member of the board and shall:

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

(2) issue temporary licenses pursuant to

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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."

SECTION 20. Section 61-6-5 NMSA 1978 (being Laws 1973, Chapter 361, Section 2, as amended) is amended to read:

"61-6-5. DUTIES AND POWERS.--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, the Impaired Health Care Provider Act, the Polysomnography

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Practice Act, the Naturopathic Doctors' Practice Act and the Naprapathic Practice 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, the Impaired Health Care Provider Act, the Polysomnography Practice Act, the Naturopathic Doctors' Practice Act and the Naprapathic Practice 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

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accordance with the Uniform Licensing Act for any cause stated in the Medical Practice Act, the Impaired Health Care Provider Act, the Naturopathic Doctors' Practice Act and the Naprapathic Practice 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~~] practitioners over which the board has authority;

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;

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

P. have the authority to waive licensure fees for the purpose of [~~medical doctor~~] the recruitment and retention of health care practitioners over which the board has authority."

SECTION 21. Section 61-6-6 NMSA 1978 (being Laws 1973, Chapter 361, Section 1, as amended) is amended to read:

"61-6-6. DEFINITIONS.--As used in the Medical Practice Act:

A. "approved postgraduate training program for physicians" means a program approved by the accreditation council for graduate medical education, the osteopathic postdoctoral training institution or other board-approved programs;

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

C. "collaboration" means the process by which a licensed physician and a physician assistant jointly contribute to the health care and medical treatment of patients; provided that:

(1) each collaborator performs actions that the collaborator is licensed or otherwise authorized to perform; and

(2) collaboration shall not be construed to

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require the physical presence of the licensed physician at the time and place services are rendered;

D. "licensed physician" means a medical [~~doctor~~] or osteopathic physician licensed under the Medical Practice Act to practice medicine in New Mexico;

E. "licensee" or "health care practitioner" means a medical [~~doctor~~] physician, osteopathic physician, physician assistant, polysomnographic technologist, anesthesiologist assistant, naturopathic doctor or naprapath licensed by the board to practice in New Mexico;

F. "medical college or school in good standing" for medical physicians 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; and for osteopathic physicians means a college of osteopathic medicine accredited by the commission of osteopathic college accreditation;

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

H. "physician assistant" means a health [~~professional~~] care practitioner who is licensed by the board to practice as a physician assistant and who provides services to patients with the supervision of or in collaboration with a licensed physician as set forth in rules promulgated by the

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board;

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

J. "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;

K. "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 or to practice health care that is under the authority of the board 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;

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(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;

L. "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

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electronic, telephonic or other means from within this state to the physician or the physician's agent;

M. "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 or health care practice;

N. "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 or health care practice; and

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

SECTION 22. Section 61-6-7.2 NMSA 1978 (being Laws 1997, Chapter 187, Section 3, as amended) is amended to read:

"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~~] the physician assistant's license on an inactive status. A physician assistant with an inactive license shall be excused

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from payment of renewal fees and shall not practice as a physician assistant.

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

SECTION 23. Section 61-6-10.6 NMSA 1978 (being Laws 2001, Chapter 311, Section 6) is amended to read:

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"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~~] the anesthesiologist assistant's 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~~] the anesthesiologist assistant's license is lapsed or on inactive status is practicing without a license and is subject to disciplinary action pursuant to the Anesthesiologist Assistants Act and Medical Practice 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."

SECTION 24. Section 61-6-10.11 NMSA 1978 (being Laws 2015, Chapter 52, Section 3) is amended to read:

"61-6-10.11. ANESTHESIOLOGIST ASSISTANTS--EMPLOYMENT CONDITIONS.--An anesthesiologist assistant shall:

A. be a current or future employee of a university in New Mexico with a medical school; or

B. in a practice other than one at a university in New Mexico with a medical school:

(1) be certified as an anesthesiologist

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assistant by the national commission for certification of anesthesiologist assistants;

(2) practice only in a health facility licensed by the department of health where, at the time the anesthesiologist assistant begins practicing there, at least three anesthesiologists who are [~~medical doctors~~] licensed physicians and who are board-certified as anesthesiologists by the American board of anesthesiology are on staff as employees or contractors;

(3) practice only in a class A county; and

(4) be supervised only by an anesthesiologist who is a [~~medical doctor~~] licensed physician and who is board-certified as an anesthesiologist by the American board of anesthesiology."

SECTION 25. Section 61-6-11 NMSA 1978 (being Laws 1923, Chapter 44, Section 3, as amended) is amended to read:

"61-6-11. PHYSICIAN 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 or osteopathic medical school, has passed an examination approved by the board and has completed two years of an approved postgraduate training program for physicians.

B. An applicant who has not completed two years of an approved postgraduate training program for physicians, but

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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 for physicians.

C. A graduate of a board-approved medical or osteopathic 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 for physicians. A graduate of a medical school located outside the United States who successfully completes at least two years of an approved postgraduate training program for physicians 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

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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 or osteopathic 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."

SECTION 26. Section 61-6-11.1 NMSA 1978 (being Laws 2001, Chapter 96, Section 10) is amended to read:

"61-6-11.1. TELEMEDICINE LICENSE.--

A. The board shall issue a licensed physician 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

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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."

SECTION 27. Section 61-6-12 NMSA 1978 (being Laws 1974, Chapter 78, Section 15, as amended) is amended to read:

"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 and to all health care practitioners over which the board has licensure authority."

SECTION 28. Section 61-12G-6 NMSA 1978 (being Laws 2019, Chapter 244, Section 6) is amended to read:

"61-12G-6. SCOPE OF PRACTICE.--

A. A licensee may practice naturopathic medicine only to provide primary care, as "primary care" is defined in rules of the board, as follows:

(1) in collaboration with a physician licensed pursuant to the Medical Practice Act [~~or the Osteopathic Medicine Act~~]; and

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(2) in alignment with naturopathic medical education to:

(a) perform physical examinations;

(b) order laboratory examinations;

(c) order diagnostic imaging studies;

(d) interpret the results of laboratory examinations for diagnostic purposes;

(e) order and, based on a radiologist's report, take action on diagnostic imaging studies in a manner consistent with naturopathic training;

(f) prescribe, administer, dispense and order the class of drugs that excludes the natural derivatives of opium, which are morphine and codeine, and related synthetic and semi-synthetic compounds that act upon opioid receptors;

(g) after passing a pharmacy examination authorized by rules of the board, prescribe, administer, dispense and order: 1) all legend drugs; and 2) testosterone products and all drugs within Schedules III, IV and V of the Controlled Substances Act, excluding all benzodiazapines, opioids and opioid derivatives;

(h) administer intramuscular, intravenous, subcutaneous, intra-articular and intradermal injections of substances appropriate to naturopathic medicine;

(i) use routes of administration that include oral, nasal, auricular, ocular, rectal, vaginal,

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transdermal, intradermal, subcutaneous, intravenous, intra-articular and intramuscular consistent with the education and training of a naturopathic doctor;

(j) perform naturopathic physical medicine;

(k) employ the use of naturopathic therapy; and

(l) use therapeutic devices, barrier contraception, intrauterine devices, hormonal and pharmaceutical contraception and durable medical equipment.

B. As used in this section, "collaboration" means the process by which a licensed physician and a naturopathic doctor jointly contribute to the health care and medical treatment of patients; provided that:

(1) each collaborator performs actions that the collaborator is licensed or otherwise authorized to perform; and

(2) collaboration shall not be construed to require the physical presence of the licensed physician at the time and place services are rendered."

SECTION 29. Section 61-12G-7 NMSA 1978 (being Laws 2019, Chapter 244, Section 7) is amended to read:

"61-12G-7. REFERRAL REQUIREMENT.--A licensee shall refer to a physician authorized to practice in the state under the Medical Practice Act [~~or the Osteopathic Medicine Act~~] any

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patient whose medical condition should, at the time of evaluation or treatment, be determined to be beyond the scope of practice of the licensee."

SECTION 30. Section 61-6-13 NMSA 1978 (being Laws 1989, Chapter 269, Section 9, as amended) is amended to read:

"61-6-13. PHYSICIAN LICENSURE BY ENDORSEMENT.--

A. The board may grant a license by endorsement to [~~an~~] a physician applicant who:

(1) has graduated from an accredited United States or Canadian medical or osteopathic medical school;

(2) is board certified in a specialty recognized by the American board of medical specialties, the American osteopathic association or other specialty boards as approved by the board;

(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 physician license by endorsement to an applicant who:

(1) has graduated from a medical or

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osteopathic 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)~~] (3) is board certified in a specialty recognized by the American board of medical specialties, the American osteopathic association or other boards as approved by the board;

[~~(5)~~] (4) 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)~~] (5) holds an unrestricted license in another state or Canada; and

[~~(7)~~] (6) 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

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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."

SECTION 31. Section 61-6-14 NMSA 1978 (being Laws 1953, Chapter 48, Section 2, as amended) is amended to read:

"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:

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(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

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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."

SECTION 32. Section 61-6-15 NMSA 1978 (being Laws 1969, Chapter 46, Section 6, as amended) is amended to read:

"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.--

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

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[~~medicine~~] as a physician, practice as a physician assistant [~~or~~], an anesthesiologist assistant, [~~practice~~] a genetic [~~counseling~~] counselor, a naturopathic practitioner or naprapathic practitioner or [~~engage in the~~] practice [~~of~~] polysomnography, 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,

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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~~] an illegal procedure;

(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;

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(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~~] licensing jurisdiction, including denial, probation, suspension or revocation, based upon acts by the licensee similar to acts described in this section. A

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certified copy of the record of [~~suspension or revocation of the state making the suspension or revocation~~] disciplinary action or sanction taken by another jurisdiction is conclusive evidence of the action;

(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 or a pattern of conduct otherwise described in this section or in violation of a board rule;

(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;

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(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 the denial of licensure, 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

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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 current or 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;

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(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;

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

(39) the use of conversion therapy on a minor.

E. As used in this section:

(1) "conversion therapy" means any practice or treatment that seeks to change a person's sexual orientation or gender identity, including any effort to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward persons of the same sex. "Conversion therapy" does not mean:

(a) counseling or mental health services that provide acceptance, support and understanding of a person without seeking to change gender identity or sexual orientation; or

(b) mental health services that facilitate a person's coping, social support, sexual

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orientation or gender identity exploration and development, including an intervention to prevent or address unlawful conduct or unsafe sexual practices, without seeking to change gender identity or sexual orientation;

(2) "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;

(3) "gender identity" means a person's self-perception, or perception of that person by another, of the person's identity as a male or female based upon the person's appearance, behavior or physical characteristics that are in accord with or opposed to the person's physical anatomy, chromosomal sex or sex at birth;

(4) "minor" means a person under eighteen years of age; and

(5) "sexual orientation" means heterosexuality, homosexuality or bisexuality, whether actual or perceived.

F. Licensees whose licenses are in a probationary status shall pay reasonable expenses for maintaining

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probationary status, including laboratory costs when laboratory testing of biological fluids are included as a condition of probation."

SECTION 33. Section 61-6-17 NMSA 1978 (being Laws 1973, Chapter 361, Section 8, as amended) is amended to read:

"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

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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)~~] (1) dentistry;

[~~(3)~~] (2) podiatry;

[~~(4)~~] (3) nursing;

[~~(5)~~] (4) optometry;

[~~(6)~~] (5) psychology;

[~~(7)~~] (6) chiropractic;

[~~(8)~~] (7) pharmacy;

[~~(9)~~] (8) acupuncture and oriental medicine; or

[~~(10)~~] (9) 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~~

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~~(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.~~] G. 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.~~] H. 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

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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.~~] I. 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.~~] J. 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.~~] K. 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.~~] L. a physician who engages in the informal practice of medicine across state lines without compensation or

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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."

SECTION 34. Section 61-6-17.1 NMSA 1978 (being Laws 2019, Chapter 184, Section 1) is amended to read:

"61-6-17.1. TEMPORARY LICENSURE EXEMPTION--OUT-OF-STATE PHYSICIANS--OUT-OF-STATE SPORTS TEAMS.--

A. An individual who is licensed in good standing to practice medicine [~~and surgery~~] in another state, and whom the board has not previously found to have violated a provision of the Medical Practice Act, may practice medicine without a license granted by the board if the individual has a written agreement with an out-of-state sports team to provide care to team members and staff traveling with the team for a specific sporting event to take place in this state; provided that:

(1) the individual has a written agreement with the out-of-state sports team governing body to provide health care services to an out-of-state sports team athlete or staff member at a scheduled sporting event;

(2) the individual's practice is limited to medical care to assist injured and ill players and coordinate appropriate referral to in-state health care providers as needed;

(3) the services to be provided by the

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individual are within the scope of practice authorized pursuant to the Medical Practice Act and rules of the board;

(4) the individual has professional liability coverage for the duration of the sporting event;

(5) the individual shall not:

(a) provide care or consultation to a resident of this state, other than a member of the out-of-state sports team during a sporting event; or

(b) practice medicine in the state, outside of the sporting event;

(6) the authorization to practice without a board-issued license pursuant to this section shall be valid only during the time of the sporting event, while the individual granted the authorization is providing care to the out-of-state sports team, and is limited to the duration of the sporting event;

(7) the individual or out-of-state sports team shall report to the board any potential:

(a) medical license violation;

(b) practice negligence; or

(c) unprofessional or dishonorable conduct, as those terms are defined in board rules;

(8) the individual's practice of medicine [~~and surgery~~] pursuant to this section shall be subject to board oversight, investigation and discipline in accordance with the

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provisions of the Medical Practice Act; and

(9) the board may report to a licensing board in a state in which an individual practicing medicine [~~or surgery~~] pursuant to this section is licensed to practice medicine [~~and surgery~~] any findings it makes pursuant to an investigation or disciplinary action that the board undertakes.

B. The board shall adopt and promulgate rules to implement the provisions of this section.

C. As used in this section:

(1) "out-of-state sports team" means an entity or organization:

(a) for which athletes engage in a sporting event;

(b) headquartered or organized under laws other than the laws of New Mexico; and

(c) a majority of whose staff and athletes are residents of another state; and

(2) "sporting event" means a scheduled sporting event involving an out-of-state sports team for which an admission fee is charged to the public, including any preparation or practice related to the activity."

SECTION 35. Section 61-6-18 NMSA 1978 (being Laws 1989, Chapter 269, Section 14, as amended) is amended to read:

"61-6-18. MEDICAL STUDENTS--INTERNS--RESIDENTS--FELLOWS.-

A. Nothing in the Medical Practice Act shall

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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 or fellow who is appointed in a board-approved residency or fellowship 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 or fellowship 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

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annually and shall be effective during each year or part of a year of postgraduate training."

SECTION 36. Section 61-6-18.1 NMSA 1978 (being Laws 1994, Chapter 80, Section 10, as amended) is amended to read:

"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 or fellowship 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 of 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

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pay the required fees set forth in Section 61-6-19 NMSA 1978."

SECTION 37. Section 61-6-19 NMSA 1978 (being Laws 1989, Chapter 269, Section 15, as amended) is amended to read:

"61-6-19. FEES.--

A. Except as provided in Section 61-1-34 NMSA 1978, the board shall impose the following fees:

(1) an application fee not to exceed [~~four hundred dollars ($400)~~] five hundred dollars ($500) for licensure by endorsement as provided in Section 61-6-13 NMSA 1978;

(2) an application fee not to exceed [~~four hundred dollars ($400)~~] five hundred dollars ($500) 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)~~] five hundred dollars ($500);

(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

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forty-six and ninety days after the required renewal date;

(7) a reinstatement fee not to exceed [~~six hundred dollars ($600)~~] seven hundred dollars ($700) 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 license renewal and registration of supervising or collaborating licensed physician;

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

(20) an application and renewal fee for a telemedicine license not to exceed [~~four hundred dollars ($400)~~] nine hundred dollars ($900);

(21) a reasonable administrative fee, not to exceed the current cost of application and license or renewal 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

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

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

SECTION 38. Section 61-6-21 NMSA 1978 (being Laws 1989, Chapter 269, Section 17, as amended) is amended to read:

"61-6-21. CONTINUING MEDICAL EDUCATION--PENALTY.--

A. [~~The board may establish rules pertaining to continuing medical education for licensees.~~] For the purpose of protecting the health and well-being of the residents of this state and for maintaining and continuing informed professional knowledge and awareness, the board shall establish mandatory continuing educational requirements for licensees under its authority.

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 and may take any further disciplinary action if the licensee fails to remediate the deficiencies, including revocation of license."

SECTION 39. Section 61-6-23 NMSA 1978 (being Laws 1989, Chapter 269, Section 19, as amended) is amended to read:

"61-6-23. INVESTIGATION--SUBPOENA.--To investigate a complaint against an applicant or a licensee, the board may issue investigative subpoenas prior to the issuance of a notice of contemplated action."

SECTION 40. Section 61-6-28 NMSA 1978 (being Laws 1945,

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Chapter 74, Section 3, as amended) is amended to read:

"61-6-28. LICENSED PHYSICIANS--CHANGING LOCATION.--A licensed physician or practitioner under licensure authority of the board or who applies for a license issued by the board who changes the location of [~~his~~] the physician's or practitioner's office or residence shall promptly notify the board of the change. Applicants and licensees shall maintain a current address, phone number and email address with the board."

SECTION 41. Section 61-6-30 NMSA 1978 (being Laws 1969, Chapter 46, Section 15, as amended) is amended to read:

"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 and competence of the applicant to resume practice and may impose terms, conditions or restrictions in its discretion.

B. The authority of the board to impose terms, [~~and~~] conditions or restrictions 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

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(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."

SECTION 42. Section 61-6-31 NMSA 1978 (being Laws 1989, Chapter 269, Section 27, as amended) is amended to read:

"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, the Genetic Counseling Act, the Polysomnography Practice Act, the Impaired Health Care Provider Act, the Naturopathic Doctors' Practice Act and the Naprapathic Practice 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

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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, the Genetic Counseling Act, the Polysomnography Practice Act, the Impaired Health Care Provider Act, the Naturopathic Doctors' Practice Act and the Naprapathic Practice 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~~] and osteopathic physicians 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, the Genetic Counseling Act, the Polysomnography Practice Act, the Impaired

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Health Care Provider Act, the Naturopathic Doctors' Practice Act and the Naprapathic Practice Act. All money unused at the end of the fiscal year shall not revert, but shall remain in the fund for use in accordance with the provisions of the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act, the Genetic Counseling Act, the Polysomnography Practice Act, the Impaired Health Care Provider Act, the Naturopathic Doctors' Practice Act and the Naprapathic Practice Act."

SECTION 43. Section 61-6-32 NMSA 1978 (being Laws 1961, Chapter 130, Section 3, as amended) is amended to read:

"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.

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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~~] the privilege upon whatever terms and conditions it deems advisable. If the practitioner fails, refuses or neglects to abide by the terms and conditions, [~~his~~] the practitioner's license to practice medicine may, in the discretion of the board, be again suspended indefinitely."

SECTION 44. Section 61-6A-5 NMSA 1978 (being Laws 2008, Chapter 53, Section 5) is amended to read:

"61-6A-5. EXEMPTIONS.--

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 medical physician or an osteopathic physician licensed under the Medical Practice Act; or

(2) a commissioned physician or surgeon

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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~~]."

SECTION 45. Section 61-11B-3 NMSA 1978 (being Laws 1993, Chapter 191, Section 3, as amended) is amended to read:

"61-11B-3. PHARMACIST CLINICIAN PRESCRIPTIVE AUTHORITY.--

A. A pharmacist clinician planning to exercise prescriptive authority in practice shall have on file at the place of practice written guidelines or protocol. The guidelines or protocol shall authorize a pharmacist clinician to exercise prescriptive authority and shall be established and approved by a practitioner in accordance with regulations adopted by the board. A copy of the written guidelines or protocol shall be on file with the board. The practitioner who is a party to the guidelines or protocol shall be in active practice and the prescriptive authority that the practitioner grants to a pharmacist clinician shall be within the scope of the practitioner's current practice.

B. The guidelines or protocol required by Subsection A of this section shall include:

(1) a statement identifying the practitioner authorized to prescribe dangerous drugs and the pharmacist clinician who is a party to the guidelines or protocol;

(2) a statement of the types of prescriptive

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authority decisions that the pharmacist clinician is authorized to make, which may include:

(a) a statement of the types of diseases, dangerous drugs or dangerous drug categories involved and the type of prescriptive authority authorized in each case; and

(b) a general statement of the procedures, decision criteria or plan the pharmacist clinician is to follow when exercising prescriptive authority;

(3) a statement of the activities the pharmacist clinician is to follow in the course of exercising prescriptive authority, including documentation of decisions made and a plan for communication or feedback to the authorizing practitioner concerning specific decisions made. Documentation may occur on the prescriptive record, patient profile, patient medical chart or in a separate log book; and

(4) a statement that describes appropriate mechanisms for reporting to the practitioner monitoring activities and results.

C. The written guidelines or protocol shall be reviewed and shall be revised every two years if necessary.

D. A pharmacist clinician planning to exercise prescriptive authority in practice shall be authorized to monitor dangerous drug therapy.

E. The board shall adopt regulations to carry out

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the provisions of the Pharmacist Prescriptive Authority Act.

F. For the purpose of the Pharmacist Prescriptive Authority Act, the New Mexico medical board [~~and the board of osteopathic medicine~~] shall adopt rules concerning the guidelines and protocol for their respective practitioners defined in Subsection D of Section 61-11B-2 NMSA 1978."

SECTION 46. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS, PERSONNEL, MONEY, APPROPRIATIONS, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES.--

A. On the effective date of this act, all functions, personnel, money, appropriations, records, furniture, equipment, supplies and other property of the board of osteopathic medicine are transferred to the New Mexico medical board.

B. On the effective date of this act, all contractual obligations of the board of osteopathic medicine are binding on the New Mexico medical board.

C. On the effective date of this act, all references in law to the board of osteopathic medicine shall be deemed to be references to the New Mexico medical board.

SECTION 47. REPEAL.--Sections 61-10-1.1 through 61-10-22 NMSA 1978 (being Laws 2016, Chapter 90, Sections 1 and 2, Laws 1974, Chapter 78, Section 16, Laws 1933, Chapter 117, Sections 2 and 3, Laws 2016, Chapter 90, Sections 5, 21 and 6 through 8, Laws 2019, Chapter 184, Section 2, Laws 1933, Chapter 117,

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Sections 6, 8 and 9, Laws 2016, Chapter 90, Sections 19 and 22 through 25, Laws 2019, Chapter 19, Section 9, Laws 1933, Chapter 117, Sections 10 and 12, Laws 2016, Chapter 90, Sections 12 and 20, Laws 1933, Chapter 117, Section 14, Laws 2016, Chapter 90, Section 18, Laws 1933, Chapter 117, Sections 15 and 16, Laws 1971, Chapter 140, Sections 1 and 2, Laws 1945, Chapter 79, Section 7 and Laws 1979, Chapter 36, Section 2, as amended) are repealed effective July 1, 2022.

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