

1 AN ACT

2 RELATING TO LICENSURE; ENACTING THE PRESCRIBING PSYCHOLOGIST
3 PRACTICE ACT; CREATING THE PRESCRIBING PSYCHOLOGIST ADVISORY
4 COUNCIL; REQUIRING THE NEW MEXICO MEDICAL BOARD TO ADMINISTER
5 THE PRESCRIBING PSYCHOLOGIST PRACTICE ACT; AMENDING THE
6 PROFESSIONAL PSYCHOLOGIST ACT TO REMOVE PRESCRIBING
7 PSYCHOLOGISTS; AMENDING, REPEALING AND ENACTING SECTIONS OF
8 THE NMSA 1978.

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

11 SECTION 1. A new section of Chapter 61 NMSA 1978 is
12 enacted to read:

13 "SHORT TITLE.--Sections 1 through 8 of this act may be
14 cited as the "Prescribing Psychologist Practice Act"."

15 SECTION 2. A new section of Chapter 61 NMSA 1978 is
16 enacted to read:

17 "DEFINITIONS.--As used in the Prescribing Psychologist
18 Practice Act:

19 A. "board" means the New Mexico medical board;

20 B. "board-approved prescribing psychologist
21 supervisor" means a licensed prescribing psychologist who,
22 after five years of practice after being licensed without
23 condition, has applied to the board to supervise prescribing
24 psychologists with conditions;

25 C. "independently licensed prescribing clinician"

1 means a:

- 2 (1) licensed physician;
- 3 (2) osteopathic physician;
- 4 (3) nurse practitioner;
- 5 (4) psychiatric nurse practitioner; or
- 6 (5) clinical nurse specialist;

7 D. "licensed" means a person licensed by the board
8 to practice as a prescribing psychologist or a prescribing
9 psychologist with conditions;

10 E. "practice of psychology" means the observation,
11 description, evaluation, interpretation and modification of
12 human behavior by the application of psychological
13 principles, methods and procedures for the purpose of
14 preventing or eliminating symptomatic, maladaptive or
15 undesired behavior and of enhancing interpersonal
16 relationships, work and life adjustment, personal
17 effectiveness, behavioral health and mental health; and
18 further means the rendering of such psychological services to
19 individuals, families or groups regardless of whether payment
20 is received for services rendered. The practice of
21 psychology includes psychological testing or
22 neuropsychological testing and the evaluation or assessment
23 of personal characteristics such as intelligence,
24 personality, abilities, interests, aptitudes and
25 neuropsychological functioning; counseling, psychoanalysis,

1 psychotherapy, hypnosis, biofeedback, behavior analysis and
2 therapy; diagnosis and treatment of a mental and emotional
3 disorder or disability, alcoholism and substance abuse,
4 disorders of habit or conduct and the psychological aspects
5 of physical illness, accident, injury and disability; and
6 psychoeducational evaluation, therapy, remediation and
7 consultation;

8 F. "prescribing psychologist" means a licensed
9 psychologist who is trained in clinical psychopharmacology,
10 engages in the practice of psychology and holds the authority
11 to administer, prescribe, count and distribute without charge
12 medication to treat mental illness consistent with the
13 standards of practice for clinical psychopharmacology;

14 G. "prescribing psychologist with conditions"
15 means a license issued by the board to a licensed
16 psychologist that permits the holder to practice psychology
17 and to prescribe and administer psychotropic medication to
18 treat mental illness consistent with the standards of
19 practice for the profession of clinical psychopharmacology
20 while under the supervision of a board-approved supervising
21 clinician pursuant to the Prescribing Psychologist Practice
22 Act;

23 H. "psychologist" means a person licensed by the
24 New Mexico state board of psychologist examiners as a
25 psychologist;

1 I. "psychotropic medication" means a controlled
2 substance or dangerous drug that may not be dispensed or
3 administered without a prescription but is limited to only
4 those agents related to the diagnosis and treatment or
5 management of mental, nervous, emotional, behavioral,
6 substance abuse or cognitive disorders, including the
7 management of or protection from side effects that result
8 from the use of those agents, whose use is consistent with
9 the standards of practice for clinical psychopharmacology;

10 J. "school" means a university or other
11 institution of higher education that is regionally accredited
12 and that offers a full-time graduate course of study in
13 psychology as defined by rule of the board or that is
14 approved by the American psychological association; and

15 K. "supervising clinician" means a licensed
16 physician, osteopathic physician, nurse practitioner,
17 psychiatric nurse practitioner or clinical nurse specialist
18 or board-approved prescribing psychologist supervisor who is
19 supervising a psychologist in the prescribing of medication
20 to treat mental illness consistent with the standards of
21 practice for clinical psychopharmacology."

22 SECTION 3. A new section of Chapter 61 NMSA 1978 is
23 enacted to read:

24 "BOARD DUTIES.--By November 11, 2023, the board shall:

25 A. pursuant to the State Rules Act, promulgate

1 rules as necessary to implement the Prescribing Psychologist
2 Practice Act, including rules for the initial licensure,
3 renewal and certification of prescribing psychologists;

4 B. establish standards of prescribing psychology
5 practice in accordance with those developed and accepted by
6 the profession;

7 C. develop educational requirements for the
8 expansion of the scope of practice of prescribing psychology;

9 D. examine, approve, deny, revoke, suspend and
10 renew the licenses of prescribing psychologists;

11 E. conduct hearings pursuant to the Uniform
12 Licensing Act upon complaints concerning the disciplining of
13 a prescribing psychologist;

14 F. prosecute and enjoin persons alleged to be in
15 violation of the Prescribing Psychologist Practice Act; and

16 G. set fees for licensure of prescribing
17 psychologists; provided that the fees do not to exceed:

18 (1) seven hundred fifty dollars (\$750) for a
19 triennial prescribing psychologist license; and

20 (2) one hundred dollars (\$100) for a
21 two-year prescribing psychologist with conditions license."

22 SECTION 4. A new section of Chapter 61 NMSA 1978 is
23 enacted to read:

24 "DRUGS--MEDICINES.--

25 A. A prescribing psychologist with conditions may

1 prescribe and administer psychotropic medication, including
2 intramuscular injections to include antipsychotic medication
3 and injectable naltrexone, under the supervision of a
4 supervising clinician.

5 B. A prescribing psychologist may prescribe, count
6 and administer psychotropic medication, including
7 intramuscular injections to include antipsychotic medications
8 and injectable naltrexone."

9 SECTION 5. A new section of Chapter 61 NMSA 1978 is
10 enacted to read:

11 "LICENSURE APPLICATION--REQUIREMENTS--RULEMAKING--
12 ISSUANCE, DENIAL, RENEWAL AND REVOCATION OF LICENSE.--

13 A. A psychologist may apply to the board for a
14 prescribing psychologist license. The application shall be
15 made on a form approved by the board and be accompanied by
16 evidence satisfactory to the board that the applicant:

17 (1) holds a current license to practice
18 psychology in New Mexico;

19 (2) has successfully completed
20 pharmacological training from an institution of higher
21 education approved by the board;

22 (3) has passed a national certification
23 examination approved by the association of state and
24 provincial psychology boards or successor organizations that
25 tests the applicant's proficiency and knowledge of

1 psychopharmacology in the diagnosis, care and treatment of
2 mental disorders;

3 (4) within the five years immediately
4 preceding the date of application, has successfully completed
5 an organized program of education approved by the board and
6 consisting of didactic instruction of no fewer than four
7 hundred fifty classroom hours in at least the following core
8 areas of instruction:

- 9 (a) neuroscience;
- 10 (b) pharmacology;
- 11 (c) psychopharmacology;
- 12 (d) physiology;
- 13 (e) pathophysiology;
- 14 (f) appropriate and relevant physical
15 and laboratory assessment; and
- 16 (g) clinical pharmacotherapeutics;

17 (5) within the five years immediately
18 preceding the date of application, has been certified by each
19 of the applicant's supervising independently licensed
20 prescribing clinicians as having successfully completed a
21 supervised and relevant clinical experience, approved by the
22 board, of:

- 23 (a) no less than an eighty-hour
24 practicum in clinical assessment and pathophysiology under
25 the supervision of an approved supervising clinician; and

1 (b) an additional supervised practicum
2 of at least four hundred hours treating no fewer than one
3 hundred patients with mental disorders, which is supervised,
4 either in person, telephonically or by video conference, by a
5 board-approved supervising clinician determined to be
6 competent to train the applicant in the treatment of a
7 diverse patient population;

8 (6) has malpractice insurance sufficient to
9 satisfy the rules adopted by the board and provides coverage
10 of the applicant during the period that the license is
11 active; and

12 (7) meets all other requirements as
13 determined by rule of the board for obtaining a prescribing
14 psychologist license.

15 B. The board shall issue a prescribing
16 psychologist license with conditions if it finds that the
17 applicant has met the requirements of Subsection A of this
18 section. The license shall be valid for a period of two
19 years, at the end of which the holder may reapply pursuant to
20 Subsection A of this section. A prescribing psychologist
21 with conditions may prescribe psychotropic medication under
22 the supervision of a supervising clinician subject to the
23 following conditions:

24 (1) the psychologist shall notify the board
25 of the name of the psychologist's supervising clinician; and

1 (2) a supervising clinician shall notify the
2 supervising clinician's own licensing board of the name of
3 each psychologist under the supervising clinician's
4 supervision.

5 C. A supervising clinician shall not be liable for
6 the acts of a prescribing psychologist under the supervising
7 clinician's supervision unless the injury or loss arises from
8 those acts under the direction and control of the supervising
9 clinician.

10 D. A prescribing psychologist may prescribe
11 psychotropic medication pursuant to the provisions of the
12 Prescribing Psychologist Practice Act if the psychologist
13 annually satisfies the continuing education requirements for
14 psychologists as set by the board, which shall be no fewer
15 than twenty hours and no more than twenty-five hours each
16 year.

17 E. The board shall promulgate rules providing for
18 the procedures to be followed in obtaining a prescribing
19 psychologist license.

20 F. The board shall promulgate rules establishing
21 the grounds for denial, suspension or revocation of
22 prescribing psychologist with conditions and prescribing
23 psychologist licenses authorized to be issued pursuant to
24 this section, including a provision for suspension or
25 revocation of a license to practice psychology upon

1 suspension or revocation of a prescribing psychologist or
2 prescribing psychologist with conditions license. Actions of
3 denial, suspension or revocation of a license shall be in
4 accordance with the Medical Practice Act."

5 SECTION 6. A new section of Chapter 61 NMSA 1978 is
6 enacted to read:

7 "PRESCRIBING PRACTICES.--

8 A. A prescribing psychologist or a prescribing
9 psychologist with conditions may prescribe and administer
10 medication to treat mental illness within the recognized
11 scope of clinical psychopharmacology.

12 B. A supervising clinician shall supervise no more
13 than four prescribing psychologists with conditions
14 simultaneously.

15 C. When prescribing medication for a patient, the
16 prescribing psychologist or the prescribing psychologist with
17 conditions shall maintain an ongoing collaborative
18 relationship with the health care practitioner who oversees
19 the patient's general medical care, and such collaboration
20 should be documented in the patient's record.

21 D. If a patient presents for care to a prescribing
22 psychologist or a prescribing psychologist with conditions,
23 but does not have an established patient relationship with a
24 primary health care provider, and the prescribing
25 psychologist or prescribing psychologist with conditions

1 believes that delaying the initiation of medication might
2 endanger the patient's health or safety, the prescribing
3 psychologist or the prescribing psychologist with conditions
4 may begin treatment for no more than sixty days during the
5 interval from when the patient makes a new patient
6 appointment until the patient is seen by the new primary
7 health care provider.

8 E. The guidelines shall ensure that the
9 prescribing psychologist or the prescribing psychologist with
10 conditions and the health care practitioner coordinate and
11 collaborate to provide optimal care for the patient. Nothing
12 in this subsection shall require a prescribing psychologist
13 or prescribing psychologist with conditions to give prior
14 notice to or obtain prior approval from a health care
15 practitioner to prescribe psychotropic medication to a
16 patient with whom the prescribing psychologist or prescribing
17 psychologist with conditions has established a
18 psychologist-patient relationship; provided that the
19 psychologist provides written notice of the prescription to
20 the health care practitioner within twenty-four hours of its
21 issuance to such patient.

22 F. A prescribing psychologist or a prescribing
23 psychologist with conditions shall not delegate prescriptive
24 authority to any other person. Records of all prescriptions
25 shall be maintained in patient records.

1 G. When authorized to prescribe controlled
2 substances, a prescribing psychologist or a prescribing
3 psychologist with conditions shall file with the board in a
4 timely manner all individual federal and state drug
5 enforcement administration registrations and numbers. The
6 board shall maintain current records on every prescribing
7 psychologist, including federal registrations and numbers.

8 H. For the purpose of this section:

9 (1) "collaborative relationship" means a
10 cooperative working relationship between a prescribing
11 psychologist or a prescribing psychologist with conditions
12 and a health care practitioner in the provision of patient
13 care, including diagnosis and cooperation in the management
14 and delivery of physical and mental health care; and

15 (2) "health care practitioner" means a
16 physician, osteopathic physician, nurse practitioner,
17 physician assistant or clinical nurse specialist."

18 SECTION 7. A new section of Chapter 61 NMSA 1978 is
19 enacted to read:

20 "ISSUANCE AND RENEWAL OF PRESCRIBING PSYCHOLOGIST
21 LICENSE.--

22 A. The board shall issue a prescribing
23 psychologist or a prescribing psychologist with conditions
24 license to a licensed psychologist who meets the
25 qualifications under Section 5 of the Prescribing

1 Psychologist Practice Act and who pays the licensing fees.

2 B. The board shall issue a prescribing
3 psychologist license to a licensed psychologist who, at the
4 time of the enactment of the Prescribing Psychologist
5 Practice Act, was certified to unconditionally prescribe
6 medication by the New Mexico state board of psychologist
7 examiners.

8 C. The board shall issue a prescribing
9 psychologist with conditions license to a licensed
10 psychologist who, at the time of the enactment of the
11 Prescribing Psychologist Practice Act, was certified to
12 prescribe medication on a conditional basis by the New Mexico
13 state board of psychologist examiners.

14 D. A license or certification shall be subject to
15 renewal every three years.

16 E. A psychologist license in good standing is
17 required for licensure as a prescribing psychologist."

18 SECTION 8. A new section of Chapter 61 NMSA 1978 is
19 enacted to read:

20 "PRESCRIBING PSYCHOLOGIST ADVISORY COUNCIL CREATED.--

21 A. The "prescribing psychologist advisory council"
22 is created under the direction of the board. The council
23 shall advise the board regarding:

24 (1) reviewing and recommending licensure of
25 prescribing psychologists;

1 (2) recommending additional education
2 requirements for prescribing psychologists;

3 (3) recommending continuing education
4 requirements;

5 (4) reviewing complaints for possible
6 action;

7 (5) identifying disciplinary actions and
8 circumstances that require disciplinary action;

9 (6) recommending changes related to statutes
10 and rules; and

11 (7) other matters as requested by the board.

12 B. The council consists of six members selected by
13 the board as follows:

14 (1) two members shall be physicians
15 recommended by the board and the New Mexico medical society;
16 and

17 (2) four members shall be prescribing
18 psychologists selected from names submitted by the statewide
19 organization of prescribing psychologists.

20 C. A vacancy shall be filled in the manner of the
21 original appointment.

22 D. The council shall meet at least four times per
23 year.

24 E. Members of the council shall be reimbursed as
25 nonsalaried public officers pursuant to the Per Diem and

1 Mileage Act, and members shall receive no other compensation,
2 perquisite or allowance for their service on the council."

3 SECTION 9. Section 61-3-23.5 NMSA 1978 (being Laws
4 2019, Chapter 19, Section 7) is amended to read:

5 "61-3-23.5. SUPERVISION OF PSYCHOLOGIST IN THE
6 PRESCRIBING OF PSYCHOTROPIC MEDICATION BY NURSE PRACTITIONER
7 OR CLINICAL NURSE SPECIALIST.--

8 A. Subject to rules promulgated by the board, a
9 nurse practitioner or clinical nurse specialist may supervise
10 a psychologist in the prescribing of psychotropic medication
11 pursuant to the Prescribing Psychologist Practice Act.

12 B. No later than January 1, 2020, the board shall
13 promulgate rules for a nurse practitioner or clinical nurse
14 specialist who supervises a psychologist in the prescribing
15 of psychotropic medication pursuant to the Prescribing
16 Psychologist Practice Act."

17 SECTION 10. Section 61-6-5 NMSA 1978 (being Laws 1973,
18 Chapter 361, Section 2, as amended) is amended to read:

19 "61-6-5. MEDICAL BOARD DUTIES AND POWERS.--The board
20 shall:

21 A. enforce and administer the provisions of the
22 Medical Practice Act, the Physician Assistant Act, the
23 Anesthesiologist Assistants Act, the Genetic Counseling Act,
24 the Impaired Health Care Provider Act, the Polysomnography
25 Practice Act, the Prescribing Psychologist Practice Act, the

1 Naturopathic Doctors' Practice Act and the Naprapathic
2 Practice Act;

3 B. promulgate, in accordance with the State Rules
4 Act, all rules for the implementation and enforcement of the
5 provisions of the Medical Practice Act, the Physician
6 Assistant Act, the Anesthesiologist Assistants Act, the
7 Genetic Counseling Act, the Impaired Health Care Provider
8 Act, the Polysomnography Practice Act, the Prescribing
9 Psychologist Practice Act, the Naturopathic Doctors' Practice
10 Act and the Naprapathic Practice Act;

11 C. adopt and use a seal;

12 D. administer oaths to all applicants, witnesses
13 and others appearing before the board, as appropriate;

14 E. take testimony on matters within the board's
15 jurisdiction;

16 F. keep an accurate record of all its meetings,
17 receipts and disbursements;

18 G. maintain records in which the name, address and
19 license number of all licensees shall be recorded, together
20 with a record of all license renewals, suspensions,
21 revocations, probations, stipulations, censures, reprimands
22 and fines;

23 H. discipline licensees or deny, review, suspend
24 and revoke licenses to practice medicine and censure,
25 reprimand, fine and place on probation and stipulation

1 licensees and applicants in accordance with the Uniform
2 Licensing Act for any cause stated in the law that the board
3 is charged with enforcing;

4 I. hire staff and administrators as necessary to
5 carry out the provisions of the Medical Practice Act;

6 J. have the authority to hire or contract with
7 investigators to investigate possible violations of the
8 Medical Practice Act;

9 K. have the authority to hire a competent attorney
10 to give advice and counsel in regard to any matter connected
11 with the duties of the board, to represent the board in any
12 legal proceedings and to aid in the enforcement of the laws
13 in relation to a health care profession or occupation over
14 which the board has authority and to fix the compensation to
15 be paid to such attorney; provided, however, that such
16 attorney shall be compensated from the funds of the board;

17 L. establish continuing education requirements for
18 licensed practitioners over which the board has authority;

19 M. establish committees as it deems necessary for
20 carrying on its business;

21 N. hire or contract with a licensed physician to
22 serve as medical director and fulfill specified duties of the
23 secretary-treasurer;

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

1 pain management; and

2 P. have the authority to waive licensure fees for
3 the purpose of the recruitment and retention of health care
4 practitioners over which the board has authority."

5 SECTION 11. Section 61-6-6 NMSA 1978 (being Laws 1973,
6 Chapter 361, Section 1, as amended) is amended to read:

7 "61-6-6. DEFINITIONS.--As used in the Medical Practice
8 Act:

9 A. "approved postgraduate training program for
10 physicians" means a program approved by the accreditation
11 council for graduate medical education, the American
12 osteopathic association or other board-approved program;

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

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

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

21 (2) collaboration shall not be construed to
22 require the physical presence of the licensed physician at
23 the time and place services are rendered;

24 D. "licensed physician" means a medical or
25 osteopathic physician licensed under the Medical Practice Act

1 to practice medicine in New Mexico;

2 E. "licensee" or "health care practitioner" means
3 a medical physician, osteopathic physician, physician
4 assistant, polysomnographic technologist, anesthesiologist
5 assistant, prescribing psychologist, naturopathic doctor or
6 naprapath licensed by the board to practice in New Mexico;

7 F. "medical college or school in good standing"
8 for medical physicians means a board-approved medical college
9 or school that has as high a standard as that required by the
10 association of American medical colleges and the council on
11 medical education of the American medical association; and
12 for osteopathic physicians means a college of osteopathic
13 medicine accredited by the commission of osteopathic college
14 accreditation;

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

17 H. "physician assistant" means a health care
18 practitioner who is licensed by the board to practice as a
19 physician assistant and who provides services to patients
20 with the supervision of or in collaboration with a licensed
21 physician as set forth in rules promulgated by the board;

22 I. "resident" means a graduate of a medical
23 college or school in good standing who is in training in a
24 board-approved and accredited residency training program in a
25 hospital or facility affiliated with an approved hospital and

1 who has been appointed to the position of "resident" or
2 "fellow" for the purpose of postgraduate medical training;

3 J. "the practice of medicine" consists of:

4 (1) advertising, holding out to the public
5 or representing in any manner that one is authorized to
6 practice medicine or to practice health care that is under
7 the authority of the board in this state;

8 (2) offering or undertaking to administer,
9 dispense or prescribe a drug or medicine for the use of
10 another person, except as authorized pursuant to a
11 professional or occupational licensing statute set forth in
12 Chapter 61 NMSA 1978;

13 (3) offering or undertaking to give or
14 administer, dispense or prescribe a drug or medicine for the
15 use of another person, except as directed by a licensed
16 physician;

17 (4) offering or undertaking to perform an
18 operation or procedure upon a person;

19 (5) offering or undertaking to diagnose,
20 correct or treat in any manner or by any means, methods,
21 devices or instrumentalities any disease, illness, pain,
22 wound, fracture, infirmity, deformity, defect or abnormal
23 physical or mental condition of a person;

24 (6) offering medical peer review,
25 utilization review or diagnostic service of any kind that

1 directly influences patient care, except as authorized
2 pursuant to a professional or occupational licensing statute
3 set forth in Chapter 61 NMSA 1978; or

4 (7) acting as the representative or agent of
5 a person in doing any of the things listed in this
6 subsection;

7 K. "the practice of medicine across state lines"
8 means:

9 (1) the rendering of a written or otherwise
10 documented medical opinion concerning diagnosis or treatment
11 of a patient within this state by a physician located outside
12 this state as a result of transmission of individual patient
13 data by electronic, telephonic or other means from within
14 this state to the physician or the physician's agent; or

15 (2) the rendering of treatment to a patient
16 within this state by a physician located outside this state
17 as a result of transmission of individual patient data by
18 electronic, telephonic or other means from within this state
19 to the physician or the physician's agent;

20 L. "sexual contact" means touching the primary
21 genital area, groin, anus, buttocks or breast of a patient or
22 allowing a patient to touch another's primary genital area,
23 groin, anus, buttocks or breast in a manner that is commonly
24 recognized as outside the scope of acceptable medical or
25 health care practice;

1 M. "sexual penetration" means sexual intercourse,
2 cunnilingus, fellatio or anal intercourse, whether or not
3 there is any emission, or introducing any object into the
4 genital or anal openings of another in a manner that is
5 commonly recognized as outside the scope of acceptable
6 medical or health care practice; and

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

9 SECTION 12. Section 61-6-15 NMSA 1978 (being Laws 1969,
10 Chapter 46, Section 6, as amended) is amended to read:

11 "61-6-15. LICENSE MAY BE REFUSED, REVOKED OR
12 SUSPENDED--LICENSEE MAY BE FINED, CENSURED OR REPRIMANDED--
13 PROCEDURE--PRACTICE AFTER SUSPENSION OR REVOCATION--PENALTY--
14 UNPROFESSIONAL AND DISHONORABLE CONDUCT DEFINED--FEES AND
15 EXPENSES.--

16 A. The board may refuse to license and may revoke
17 or suspend a license that has been issued by the board or a
18 previous board and may fine, censure or reprimand a licensee
19 upon satisfactory proof being made to the board that the
20 applicant for or holder of the license has been guilty of
21 unprofessional or dishonorable conduct. The board may also
22 refuse to license an applicant who is unable to practice as a
23 physician, practice as a physician assistant, an
24 anesthesiologist assistant, a genetic counselor, a
25 naturopathic practitioner, a naprapathic practitioner or a

1 prescribing psychologist or practice polysomnography,
2 pursuant to Section 61-7-3 NMSA 1978. All proceedings shall
3 be as required by the Uniform Licensing Act or the Impaired
4 Health Care Provider Act.

5 B. The board may, in its discretion and for good
6 cause shown, place the licensee on probation on the terms and
7 conditions it deems proper for protection of the public, for
8 the purpose of rehabilitation of the probationer or both.
9 Upon expiration of the term of probation, if a term is set,
10 further proceedings may be abated by the board if the holder
11 of the license furnishes the board with evidence that the
12 licensee is competent to practice, is of good moral character
13 and has complied with the terms of probation.

14 C. If evidence fails to establish to the
15 satisfaction of the board that the licensee is competent and
16 is of good moral character or if evidence shows that the
17 licensee has not complied with the terms of probation, the
18 board may revoke or suspend the license. If a license to
19 practice in this state is suspended, the holder of the
20 license may not practice during the term of suspension. A
21 person whose license has been revoked or suspended by the
22 board and who thereafter practices or attempts or offers to
23 practice in New Mexico, unless the period of suspension has
24 expired or been modified by the board or the license
25 reinstated, is guilty of a felony and shall be punished as

1 provided in Section 61-6-20 NMSA 1978.

2 D. "Unprofessional or dishonorable conduct", as
3 used in this section, means, but is not limited to because of
4 enumeration, conduct of a licensee that includes the
5 following:

6 (1) procuring, aiding or abetting an illegal
7 procedure;

8 (2) employing a person to solicit patients
9 for the licensee;

10 (3) representing to a patient that a
11 manifestly incurable condition of sickness, disease or injury
12 can be cured;

13 (4) obtaining a fee by fraud or
14 misrepresentation;

15 (5) willfully or negligently divulging a
16 professional confidence;

17 (6) conviction of an offense punishable by
18 incarceration in a state penitentiary or federal prison or
19 conviction of a misdemeanor associated with the practice of
20 the licensee. A copy of the record of conviction, certified
21 by the clerk of the court entering the conviction, is
22 conclusive evidence;

23 (7) habitual or excessive use of intoxicants
24 or drugs;

25 (8) fraud or misrepresentation in applying

1 for or procuring a license to practice in this state or in
2 connection with applying for or procuring renewal, including
3 cheating on or attempting to subvert the licensing
4 examinations;

5 (9) making false or misleading statements
6 regarding the skill of the licensee or the efficacy or value
7 of the medicine, treatment or remedy prescribed or
8 administered by the licensee or at the direction of the
9 licensee in the treatment of a disease or other condition of
10 the human body or mind;

11 (10) impersonating another licensee,
12 permitting or allowing a person to use the license of the
13 licensee or practicing as a licensee under a false or assumed
14 name;

15 (11) aiding or abetting the practice of a
16 person not licensed by the board;

17 (12) gross negligence in the practice of a
18 licensee;

19 (13) manifest incapacity or incompetence to
20 practice as a licensee;

21 (14) discipline imposed on a licensee by
22 another licensing jurisdiction, including denial, probation,
23 suspension or revocation, based upon acts by the licensee
24 similar to acts described in this section. A certified copy
25 of the record of disciplinary action or sanction taken by

1 another jurisdiction is conclusive evidence of the action;

2 (15) the use of a false, fraudulent or
3 deceptive statement in a document connected with the practice
4 of a licensee;

5 (16) fee splitting;

6 (17) the prescribing, administering or
7 dispensing of narcotic, stimulant or hypnotic drugs for other
8 than accepted therapeutic purposes;

9 (18) conduct likely to deceive, defraud or
10 harm the public;

11 (19) repeated similar negligent acts or a
12 pattern of conduct otherwise described in this section or in
13 violation of a board rule;

14 (20) employing abusive billing practices;

15 (21) failure to report to the board any
16 adverse action taken against the licensee by:

17 (a) another licensing jurisdiction;

18 (b) a peer review body;

19 (c) a health care entity;

20 (d) a professional or medical society

21 or association;

22 (e) a governmental agency;

23 (f) a law enforcement agency; or

24 (g) a court for acts or conduct similar

25 to acts or conduct that would constitute grounds for action

1 as defined in this section;

2 (22) failure to report to the board the
3 denial of licensure, surrender of a license or other
4 authorization to practice in another state or jurisdiction or
5 surrender of membership on any medical staff or in any
6 medical or professional association or society following, in
7 lieu of and while under disciplinary investigation by any of
8 those authorities or bodies for acts or conduct similar to
9 acts or conduct that would constitute grounds for action as
10 defined in this section;

11 (23) failure to furnish the board, its
12 investigators or representatives with information requested
13 by the board;

14 (24) abandonment of patients;

15 (25) being found mentally incompetent or
16 insane by a court of competent jurisdiction;

17 (26) injudicious prescribing, administering
18 or dispensing of a drug or medicine;

19 (27) failure to adequately supervise, as
20 provided by board rule, a medical or surgical assistant or
21 technician or professional licensee who renders health care;

22 (28) sexual contact with a patient or person
23 who has authority to make medical decisions for a patient,
24 other than the spouse of the licensee;

25 (29) conduct unbecoming in a person licensed

1 to practice or detrimental to the best interests of the
2 public;

3 (30) the surrender of a license or
4 withdrawal of an application for a license before another
5 state licensing board while an investigation or disciplinary
6 action is pending before that board for acts or conduct
7 similar to acts or conduct that would constitute grounds for
8 action pursuant to this section;

9 (31) sexual contact with a former mental
10 health patient of the licensee, other than the spouse of the
11 licensee, within one year from the end of treatment;

12 (32) sexual contact with a patient when the
13 licensee uses or exploits treatment, knowledge, emotions or
14 influence derived from the current or previous professional
15 relationship;

16 (33) improper management of medical records,
17 including failure to maintain timely, accurate, legible and
18 complete medical records;

19 (34) failure to provide pertinent and
20 necessary medical records to a physician or patient of the
21 physician in a timely manner when legally requested to do so
22 by the patient or by a legally designated representative of
23 the patient;

24 (35) undertreatment of pain as provided by
25 board rule;

1 (36) interaction with physicians, hospital
2 personnel, patients, family members or others that interferes
3 with patient care or could reasonably be expected to
4 adversely impact the quality of care rendered to a patient;

5 (37) soliciting or receiving compensation by
6 a physician assistant or anesthesiologist assistant from a
7 person who is not an employer of the assistant;

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

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

12 E. As used in this section:

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

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

23 (b) mental health services that
24 facilitate a person's coping, social support, sexual
25 orientation or gender identity exploration and development,

1 including an intervention to prevent or address unlawful
2 conduct or unsafe sexual practices, without seeking to change
3 gender identity or sexual orientation;

4 (2) "fee splitting" includes offering,
5 delivering, receiving or accepting any unearned rebate,
6 refunds, commission preference, patronage dividend, discount
7 or other unearned consideration, whether in the form of money
8 or otherwise, as compensation or inducement for referring
9 patients, clients or customers to a person, irrespective of
10 any membership, proprietary interest or co-ownership in or
11 with a person to whom the patients, clients or customers are
12 referred;

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

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

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

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

1 probationary status, including laboratory costs when
2 laboratory testing of biological fluids is included as a
3 condition of probation."

4 SECTION 13. Section 61-6-31 NMSA 1978 (being Laws 1989,
5 Chapter 269, Section 27, as amended) is amended to read:

6 "61-6-31. DISPOSITION OF FUNDS--NEW MEXICO MEDICAL
7 BOARD FUND CREATED--METHOD OF PAYMENTS.--

8 A. There is created the "New Mexico medical board
9 fund".

10 B. All funds received by the board and money
11 collected under the Medical Practice Act, the Physician
12 Assistant Act, the Anesthesiologist Assistants Act, the
13 Genetic Counseling Act, the Polysomnography Practice Act, the
14 Prescribing Psychologist Practice Act, the Impaired Health
15 Care Provider Act, the Naturopathic Doctors' Practice Act and
16 the Naprapathic Practice Act shall be deposited with the
17 state treasurer, who shall place the same to the credit of
18 the New Mexico medical board fund.

19 C. All payments out of the fund shall be made on
20 vouchers issued and signed by the secretary-treasurer of the
21 board or the designee of the secretary-treasurer upon
22 warrants drawn by the department of finance and
23 administration in accordance with the budget approved by that
24 department.

25 D. All amounts in the New Mexico medical board

1 fund shall be subject to the order of the board and shall be
2 used only for the purpose of meeting necessary expenses
3 incurred in:

4 (1) the performance of the provisions of the
5 Medical Practice Act, the Physician Assistant Act, the
6 Anesthesiologist Assistants Act, the Genetic Counseling Act,
7 the Polysomnography Practice Act, the Prescribing
8 Psychologist Practice Act, the Impaired Health Care Provider
9 Act, the Naturopathic Doctors' Practice Act and the
10 Naprapathic Practice Act and the duties and powers imposed by
11 those acts;

12 (2) the promotion of medical education and
13 standards in this state within the budgetary limits; and

14 (3) efforts to recruit and retain medical
15 and osteopathic physicians for practice in New Mexico.

16 E. All funds that may have accumulated to the
17 credit of the board under any previous law shall be
18 transferred to the New Mexico medical board fund and shall
19 continue to be available for use by the board in accordance
20 with the provisions of the Medical Practice Act, the
21 Physician Assistant Act, the Anesthesiologist Assistants Act,
22 the Genetic Counseling Act, the Polysomnography Practice Act,
23 the Prescribing Psychologist Practice Act, the Impaired
24 Health Care Provider Act, the Naturopathic Doctors' Practice
25 Act and the Naprapathic Practice Act. All money unused at

1 the end of the fiscal year shall not revert, but shall remain
2 in the fund for use in accordance with the provisions of the
3 Medical Practice Act, the Physician Assistant Act, the
4 Anesthesiologist Assistants Act, the Genetic Counseling Act,
5 the Polysomnography Practice Act, the Prescribing
6 Psychologist Practice Act, the Impaired Health Care Provider
7 Act, the Naturopathic Doctors' Practice Act and the
8 Naprapathic Practice Act."

9 SECTION 14. Section 61-9-3 NMSA 1978 (being Laws 1963,
10 Chapter 92, Section 3, as amended) is amended to read:

11 "61-9-3. DEFINITIONS.--As used in the Professional
12 Psychologist Act:

13 A. "board" means the New Mexico state board of
14 psychologist examiners;

15 B. "person" includes an individual, firm,
16 partnership, association or corporation;

17 C. "psychologist" means a person who engages in
18 the practice of psychology or holds the person's self out to
19 the public by any title or description of services
20 representing the person as a psychologist, which incorporates
21 the words "psychological", "psychologist", "psychology", or
22 when a person describes the person's self as above and, under
23 such title or description, offers to render or renders
24 services involving the application of principles, methods and
25 procedures of the science and profession of psychology to

1 persons for compensation or other personal gain;

2 D. "practice of psychology" means the observation,
3 description, evaluation, interpretation and modification of
4 human behavior by the application of psychological
5 principles, methods and procedures for the purpose of
6 preventing or eliminating symptomatic, maladaptive or
7 undesired behavior and of enhancing interpersonal
8 relationships, work and life adjustment, personal
9 effectiveness, behavioral health and mental health, and
10 further means the rendering of such psychological services to
11 individuals, families or groups regardless of whether payment
12 is received for services rendered. The practice of
13 psychology includes psychological testing or
14 neuropsychological testing and the evaluation or assessment
15 of personal characteristics such as intelligence,
16 personality, abilities, interests, aptitudes and
17 neuropsychological functioning; counseling, psychoanalysis,
18 psychotherapy, hypnosis, biofeedback, behavior analysis and
19 therapy; diagnosis and treatment of a mental and emotional
20 disorder or disability, alcoholism and substance abuse,
21 disorders of habit or conduct and the psychological aspects
22 of physical illness, accident, injury and disability; and
23 psychoeducational evaluation, therapy, remediation and
24 consultation; and

25 E. "school" or "college" means a university or

1 other institution of higher education that is regionally
2 accredited and that offers a full-time graduate course of
3 study in psychology as defined by rule of the board or that
4 is approved by the American psychological association."

5 SECTION 15. Section 61-9-10 NMSA 1978 (being Laws 1963,
6 Chapter 92, Section 9, as amended) is amended to read:

7 "61-9-10. LICENSURE OF PSYCHOLOGISTS FROM OTHER AREAS--
8 EXPEDITED LICENSURE.--

9 A. Except as provided in Section 61-9-10.1 NMSA
10 1978 for temporary or other provisional licensure that is not
11 an expedited license, upon application accompanied by a fee
12 as required by the Professional Psychologist Act, the board
13 shall, without written or oral examination, issue an
14 expedited license to a person who furnishes, upon a form and
15 in such manner as the board prescribes, evidence to the board
16 that the person has been licensed or certified as a
17 psychologist by another licensing jurisdiction for two years.
18 An applicant seeking a license shall demonstrate to the board
19 that the training and education received by the applicant is
20 equivalent to the requirements for a doctoral degree in
21 psychology as provided in the Professional Psychologist Act;
22 that the applicant holds a valid, unrestricted license and is
23 in good standing with the licensing board of that licensing
24 jurisdiction; and the applicant has practiced psychology for
25 at least two years immediately prior to application in

1 New Mexico.

2 B. The board shall, as soon as practicable but not
3 later than thirty days after an out-of-state licensee files
4 an application for an expedited license, process the
5 application and issue an expedited license in accordance with
6 Section 61-1-31.1 NMSA 1978.

7 C. If the board issues an expedited license to a
8 person whose prior licensing jurisdiction did not require
9 examination, the board may require the person to pass an
10 examination before license renewal.

11 D. The board by rule shall determine the states
12 and territories of the United States and the District of
13 Columbia from which it will not accept an applicant for
14 expedited licensure and shall determine any foreign countries
15 from which it will accept an applicant for expedited
16 licensure. The board shall post the lists of disapproved and
17 approved licensing jurisdictions on its website. The list of
18 disapproved licensing jurisdictions shall include the
19 specific reasons for disapproval. The rule shall be reviewed
20 annually to determine if amendments to the rule are
21 warranted."

22 SECTION 16. DELAYED REPEAL.--Sections 61-9-17 through
23 61-9-17.3 NMSA 1978 (being Laws 1963, Chapter 92, Section 16,
24 Laws 2002, Chapter 100, Sections 6 and 7 and Laws 2019,
25 Chapter 19, Section 8, as amended) are repealed effective

1 March 1, 2024.

2 SECTION 17. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2024. _____

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