

1 AN ACT

2 RELATING TO LICENSING OF OSTEOPATHIC PHYSICIANS AND  
3 OSTEOPATHIC PHYSICIAN ASSISTANTS; AMENDING, REPEALING AND  
4 ENACTING SECTIONS OF CHAPTER 61, ARTICLE 10 NMSA 1978;  
5 PROVIDING FOR PENALTIES; AMENDING THE PHARMACIST PRESCRIPTIVE  
6 AUTHORITY ACT TO REQUIRE THE BOARD OF OSTEOPATHIC MEDICINE TO  
7 ADOPT REGULATIONS FOR OSTEOPATHIC PHYSICIANS WHO SUPERVISE  
8 PHARMACY CLINICIANS; PROVIDING FOR DELAYED REPEAL.

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

11 SECTION 1. A new section of Chapter 61, Article 10  
12 NMSA 1978 is enacted to read:

13 "SHORT TITLE.--Chapter 61, Article 10 NMSA 1978 may be  
14 cited as the "Osteopathic Medicine Act"."

15 SECTION 2. A new section of Chapter 61, Article 10  
16 NMSA 1978 is enacted to read:

17 "DEFINITIONS.--As used in the Osteopathic Medicine Act:

18 A. "administer" means to apply a prepackaged drug  
19 to the body of a patient by any means;

20 B. "board" means the board of osteopathic  
21 medicine;

22 C. "dispense" means to deliver a drug directly to  
23 a patient and includes the compounding, labeling and  
24 repackaging of a drug from a bulk or original container;

25 D. "distribute" means to administer or supply

1 directly to a patient under the direct care of the  
2 distributing osteopathic physician's assistant one or more  
3 doses of drugs prepackaged by a licensed pharmacist and  
4 excludes the compounding or repackaging from a bulk or  
5 original container;

6 E. "health care practitioner" means an individual  
7 licensed, certified or otherwise authorized or permitted by  
8 law to provide health care in the ordinary course of business  
9 or practice of a profession;

10 F. "osteopathic medicine" means the complete  
11 system or school of osteopathic medicine governed by the  
12 Osteopathic Medicine Act;

13 G. "osteopathic physician" means a physician  
14 licensed to practice osteopathic medicine in New Mexico;

15 H. "osteopathic physician assistant" means a  
16 skilled person licensed by the board as being qualified by  
17 academic and practical training to provide patient services  
18 under supervision as provided by the Osteopathic Medicine  
19 Act;

20 I. "pharmacist clinician" means a pharmacist who  
21 exercises prescriptive authority pursuant to the Pharmacist  
22 Prescriptive Authority Act;

23 J. "prescribe" means to issue an order  
24 individually for the person for whom prescribed, either  
25 directly from the prescriber to the pharmacist or indirectly

1 by means of a written order signed by the prescriber, bearing  
2 the name and address of the prescriber, the prescriber's  
3 license classification, the name and address of the patient  
4 and the name of the drug prescribed, directions for its use  
5 and the date of its issue; and

6 K. "supervising physician" means a physician  
7 licensed under the Medical Practice Act or an osteopathic  
8 physician."

9 SECTION 3. Section 61-10-2 NMSA 1978 (being Laws 1974,  
10 Chapter 78, Section 16) is amended to read:

11 "61-10-2. CRIMINAL OFFENDER'S CHARACTER EVALUATION.--  
12 The provisions of the Criminal Offender Employment Act shall  
13 govern any consideration of criminal records required or  
14 permitted by the Osteopathic Medicine Act."

15 SECTION 4. Section 61-10-3 NMSA 1978 (being Laws 1933,  
16 Chapter 117, Section 2, as amended) is amended to read:

17 "61-10-3. LICENSE.--It is unlawful for any person to  
18 practice as an osteopathic physician in this state without a  
19 license issued by the board; provided that any license or  
20 certificate previously issued under the laws of this state  
21 authorizing its holder to practice osteopathic medicine shall  
22 in no way be affected by the provisions of the Osteopathic  
23 Medicine Act."

24 SECTION 5. Section 61-10-5 NMSA 1978 (being Laws 1933,  
25 Chapter 117, Section 4, as amended) is repealed and a new

1 Section 61-10-5 NMSA 1978 is enacted to read:

2 "61-10-5. BOARD OF OSTEOPATHIC MEDICINE--APPOINTMENT--  
3 TERMS--MEETINGS--MEMBERSHIP--EXAMINATIONS--DUTIES--POWERS.--

4 A. The "board of osteopathic medicine" is created.  
5 The board shall be administratively attached to the  
6 regulation and licensing department. The board shall consist  
7 of seven members appointed by the governor as follows:

8 (1) five members with at least two years of  
9 experience in their respective fields immediately preceding  
10 their appointment who are licensed as follows:

11 (a) four members who are osteopathic  
12 physicians licensed in good standing pursuant to  
13 Section 61-10-8 NMSA 1978; and

14 (b) one member who is an osteopathic  
15 physician assistant licensed in good standing pursuant to the  
16 Osteopathic Medicine Act; and

17 (2) two public members. The public members  
18 of the board shall not:

19 (a) have been licensed as osteopathic  
20 physicians or as osteopathic physician assistants; or

21 (b) have any significant financial  
22 interest, direct or indirect, in the occupation regulated.

23 B. The governor shall appoint board members who  
24 are osteopathic physicians and osteopathic physician  
25 assistants respectively from a list of five qualified

1 osteopathic physicians and five osteopathic physician  
2 assistants that the New Mexico osteopathic medical  
3 association or its authorized governing body or council  
4 provides.

5 C. The board shall:

6 (1) issue licenses to individuals who meet  
7 the qualifications for licensure as osteopathic physicians or  
8 osteopathic physician assistants;

9 (2) discipline osteopathic physicians and  
10 osteopathic physician assistants for incompetence or  
11 unprofessional or dishonorable conduct;

12 (3) protect the public from the unauthorized  
13 practice of osteopathy;

14 (4) enforce and administer the provisions of  
15 the Osteopathic Medicine Act;

16 (5) adopt and promulgate in accordance with  
17 the Uniform Licensing Act and the State Rules Act all rules  
18 for the implementation and enforcement of the Osteopathic  
19 Medicine Act. Rulemaking shall include adoption and  
20 promulgation of rules related to the management of pain based  
21 on a review of national standards for pain management;

22 (6) adopt and use a seal;

23 (7) administer oaths to applicants,  
24 witnesses and others appearing before the board, as the board  
25 deems appropriate;

1                   (8) take testimony on matters within the  
2 board's jurisdiction;

3                   (9) adopt and promulgate rules relating to  
4 the oversight of osteopathic physicians who supervise  
5 pharmacist clinicians;

6                   (10) keep an accurate record of all of its  
7 meetings, receipts and disbursements;

8                   (11) maintain records in which the name,  
9 address and license number of all licensees shall be  
10 recorded, together with a record of all license renewals,  
11 suspensions, revocations, probations, stipulations, censures,  
12 reprimands and fines;

13                   (12) grant, deny, review, suspend and revoke  
14 licenses to practice osteopathic medicine and censure,  
15 reprimand, fine and place on probation and stipulation  
16 licensees and applicants in accordance with the Uniform  
17 Licensing Act for any cause stated in the Osteopathic  
18 Medicine Act;

19                   (13) hire or contract with investigators as  
20 it deems necessary to investigate possible violations of the  
21 Osteopathic Medicine Act;

22                   (14) establish continuing medical education  
23 requirements that coincide with continuing medical education  
24 cycles of the American osteopathic association for licensed  
25 osteopathic physicians and osteopathic physician assistants;

1 and

2 (15) establish committees as it deems  
3 necessary for executing board duties.

4 D. The board may adopt and enforce rules for  
5 osteopathic physician assistants for:

6 (1) establishing qualifications of  
7 education, skill and experience for licensure of a person as  
8 an osteopathic physician assistant and providing forms and  
9 procedures for licensure and for biennial registration of  
10 supervision;

11 (2) examining and evaluating applicants for  
12 licensure as an osteopathic physician assistant as to their  
13 skill, knowledge and experience in the field of medical care;

14 (3) establishing when and for how long an  
15 osteopathic physician assistant is permitted to prescribe,  
16 administer and distribute dangerous drugs other than  
17 controlled substances in Schedule I of the Controlled  
18 Substances Act after consultation with the board of pharmacy;

19 (4) allowing a supervising osteopathic  
20 physician to temporarily delegate supervisory  
21 responsibilities for an osteopathic physician assistant to  
22 another supervising physician;

23 (5) allowing an osteopathic physician  
24 assistant to temporarily serve under a supervising physician  
25 other than the supervising physician of record; and

1                   (6) the purpose of carrying out all other  
2 provisions of the Osteopathic Medicine Act.

3                   E. Board members shall be appointed for staggered  
4 terms of four years so that not more than three members'  
5 terms expire in any one year. A board member shall not serve  
6 more than two consecutive terms. The vacancy of the term of  
7 a member shall be filled by appointment by the governor to  
8 the unexpired portion of the four-year term. A board member  
9 whose term has expired shall serve until the member's  
10 successor is appointed.

11                  F. The board shall meet at the call of the chair  
12 at least three times a year and may hold other meetings as  
13 the chair deems necessary. A majority of the board  
14 constitutes a quorum.

15                  G. The board shall have an annual election of a  
16 chair and a vice chair and other officers as it deems  
17 necessary.

18                  H. The chair shall preside over the meetings and  
19 affairs of the board. The vice chair shall perform those  
20 duties that the chair assigns and shall serve as chair when  
21 the chair is absent.

22                  I. Members of the board are entitled to receive  
23 per diem and mileage as provided in the Per Diem and Mileage  
24 Act, but shall receive no other compensation, perquisite or  
25 allowance, for each day necessarily spent in the discharge of

1 their duties.

2 J. A board member failing to attend three  
3 consecutive meetings, either regular or special, shall  
4 automatically be removed as a member of the board unless  
5 excused for reasons established in board rules."

6 SECTION 6. Section 61-10-6 NMSA 1978 (being Laws 1933,  
7 Chapter 117, Section 5, as amended) is repealed and a new  
8 Section 61-10-6 NMSA 1978 is enacted to read:

9 "61-10-6. LICENSURE--REQUIREMENTS.--

10 A. The board may consider for licensure an  
11 individual who:

12 (1) is a graduate of a school of osteopathic  
13 medicine accredited by the commission on osteopathic college  
14 accreditation and recognized by the American osteopathic  
15 association;

16 (2) has successfully passed all three levels  
17 of the comprehensive osteopathic medical licensing  
18 examination, its predecessor examination or the United States  
19 medical licensing examination; provided that the board shall  
20 not grant a license to an applicant who has not passed the  
21 final level of the respective examination within seven years  
22 of having successfully passed the first level of that  
23 examination;

24 (3) provides evidence to the board of having  
25 completed at least two years of a board-approved nationally

1 accredited post-graduate training program; and

2 (4) makes an application in accordance with  
3 board rules and pays the fees required pursuant to  
4 Section 61-10-6.1 NMSA 1978.

5 B. An applicant who has not completed two years of  
6 a board-approved nationally accredited post-graduate training  
7 program, but who otherwise meets all other licensing  
8 requirements, may present evidence to the board of the  
9 applicant's other professional experience for consideration  
10 by the board in lieu of the approved post-graduate program  
11 required pursuant to Paragraph (3) of Subsection A of this  
12 section.

13 C. As a condition of licensure, the board may  
14 require an applicant for licensure to:

15 (1) appear personally before the board or  
16 its designated agent for an interview; or

17 (2) be fingerprinted and supply any other  
18 information necessary to obtain a state or national criminal  
19 background check; provided that an applicant shall pay any  
20 fees for a criminal background check directly to the  
21 screening entity that performs the check."

22 SECTION 7. Section 61-10-6.1 NMSA 1978 (being Laws  
23 1989, Chapter 371, Section 3) is repealed and a new  
24 Section 61-10-6.1 NMSA 1978 is enacted to read:

25 "61-10-6.1. FEES.--The board may charge the following

1 fees; provided that all fees are nonrefundable and shall be  
2 used by the board to carry out its duties:

3 A. pertaining to osteopathic physicians:

4 (1) an application fee not to exceed one  
5 thousand dollars (\$1,000) for triennial licensure of an  
6 osteopathic physician pursuant to Section 61-10-12 NMSA 1978;

7 (2) a triennial osteopathic physician  
8 licensure renewal fee not to exceed one thousand dollars  
9 (\$1,000);

10 (3) a fee not to exceed seventy-five dollars  
11 (\$75.00) for placing an osteopathic physician license on  
12 inactive status;

13 (4) a late fee not to exceed:

14 (a) two hundred dollars (\$200) for  
15 osteopathic physicians who fail to renew their licenses on or  
16 before July 1 of the year in which their triennial licenses  
17 are due for renewal but who renew on or before September 29  
18 of that year; and

19 (b) four hundred dollars (\$400) for  
20 osteopathic physicians who renew their licenses after  
21 September 29;

22 (5) a reinstatement fee not to exceed five  
23 hundred dollars (\$500) for reinstatement of a revoked,  
24 suspended or inactive osteopathic physician license;

25 (6) a temporary license fee not to exceed

1 one hundred dollars (\$100);

2 (7) a post-graduate osteopathic physician  
3 training license fee not to exceed fifty dollars (\$50.00);

4 (8) an osteopathic physician telemedicine  
5 triennial license fee not to exceed four hundred dollars  
6 (\$400); and

7 (9) an impaired physician fee not to exceed  
8 one hundred dollars (\$100);

9 B. pertaining to osteopathic physician assistants:

10 (1) a biennial license fee not to exceed  
11 four hundred fifty dollars (\$450);

12 (2) a registration of new supervision fee  
13 that is equal to one-half of the biennial license fee for  
14 osteopathic physician assistants;

15 (3) a late fee not to exceed twenty-five  
16 dollars (\$25.00) for osteopathic physician assistants who  
17 fail to renew their licenses on or before July 1 of the year  
18 in which their biennial licenses are due for renewal;

19 (4) an impaired osteopathic physician  
20 assistant fee not to exceed one hundred dollars (\$100); and

21 (5) a fee for an osteopathic physician  
22 assistant license on inactive status not to exceed  
23 seventy-five dollars (\$75.00); and

24 C. pertaining to osteopathic physician and  
25 osteopathic physician assistant licensees or applicants:

1 (1) a fee not to exceed five hundred dollars  
2 (\$500) for reprocessing an application or renewal that  
3 includes errors that would otherwise be subject to  
4 investigation and possible disciplinary action; and

5 (2) a reasonable administrative fee that the  
6 board establishes by rule for verification of license,  
7 publications and copying charges."

8 SECTION 8. Section 61-10-7 NMSA 1978 (being Laws 1977,  
9 Chapter 155, Section 1) is repealed and a new Section 61-10-7  
10 NMSA 1978 is enacted to read:

11 "61-10-7. TEMPORARY LICENSE--QUALIFICATIONS.--

12 A. In the interim between regular board meetings,  
13 the board's chair or an authorized representative of the  
14 board shall issue a temporary license to practice as an  
15 osteopathic physician or osteopathic physician assistant to a  
16 qualified applicant who has filed a complete application for  
17 licensure in accordance with the Osteopathic Medicine Act and  
18 board rules. The temporary license shall expire on the date  
19 of the next regular meeting of the board, at which time the  
20 board shall grant final approval.

21 B. Upon written application, accompanied by proof  
22 of qualifications as specified by board rules, the board may  
23 issue a temporary license to an applicant who seeks temporary  
24 licensure to:

25 (1) provide services at an organized youth

1 camp or school; provided that the practice of osteopathic  
2 medicine shall be confined to enrollees, leaders and  
3 employees of the camp or school;

4 (2) assist in teaching;

5 (3) conduct research;

6 (4) perform a specialized diagnostic and  
7 treatment procedure;

8 (5) implement new technology; or

9 (6) pursue an educational purpose.

10 C. The board shall grant a temporary license only  
11 to an applicant who:

12 (1) submits a written application and  
13 accompanies the application with proof of qualifications as  
14 specified in board rules;

15 (2) pays a temporary license fee pursuant to  
16 Section 61-10-6.1 NMSA 1978; and

17 (3) is supervised by an osteopathic  
18 physician who is licensed in New Mexico and who submits an  
19 affidavit attesting to the qualifications of the applicant  
20 and the activities that the applicant will perform.

21 D. The board shall issue a temporary license that  
22 is valid for a period not to exceed three months from the  
23 date of issuance. A temporary license may be renewed up to  
24 six times for a period not to exceed eighteen months.

25 E. A temporary license shall:

1 (1) describe the activities to which the  
2 licensee shall be limited; and

3 (2) identify the osteopathic physician who  
4 will supervise the applicant during the time the applicant  
5 practices osteopathic medicine in the state."

6 SECTION 9. Section 61-10-8 NMSA 1978 (being Laws 1933,  
7 Chapter 117, Section 6, as amended) is amended to read:

8 "61-10-8. PROFESSIONAL EDUCATION.--

9 A. After July 1, 2016, a first-time applicant for  
10 licensure to practice as an osteopathic physician shall:

11 (1) be a graduate of a college of  
12 osteopathic medicine accredited by the commission on  
13 osteopathic college accreditation and recognized by the  
14 American osteopathic association; and

15 (2) have completed at least two years of  
16 post-graduate training approved by the American osteopathic  
17 association or the accreditation council for graduate medical  
18 education.

19 B. An osteopathic physician who has been licensed  
20 in this state or another state of the United States before  
21 July 1, 2016 shall have completed at least one year of  
22 post-graduate training approved by the American osteopathic  
23 association or the accreditation council for graduate medical  
24 education."

25 SECTION 10. Section 61-10-11 NMSA 1978 (being Laws

1 1933, Chapter 117, Section 9, as amended) is amended to read:

2 "61-10-11. LICENSE ISSUED.--The board shall issue to  
3 each applicant for a license to practice as provided in the  
4 Osteopathic Medicine Act who has the required education  
5 qualifications and meets the requirements of that act a  
6 license that carries with it the title doctor of osteopathic  
7 medicine and osteopathic physician with right to practice as  
8 taught and practiced in the standard colleges of osteopathic  
9 medicine."

10 SECTION 11. Section 61-10-12 NMSA 1978 (being  
11 Laws 1933, Chapter 117, Section 10, as amended) is amended to  
12 read:

13 "61-10-12. LICENSE WITHOUT EXAMINATION.--The board may,  
14 in its discretion, issue a license without examination to an  
15 osteopathic physician who has been licensed in any country,  
16 state, territory or province and who is a graduate of a  
17 standard college of osteopathic medicine upon the following  
18 conditions:

19 A. that the applicant is of good moral character;

20 B. that the requirements to practice in the  
21 country, state, territory or province in which the applicant  
22 is already licensed are equal to those of this state; and

23 C. that the applicant shall be required to pay the  
24 fee designated for such license in Section 61-10-6.1

25 NMSA 1978.

1           The board may also, in its discretion, issue a license  
2 without examination to an osteopathic physician who is a  
3 graduate of a standard college of osteopathic medicine and  
4 who has passed an examination for admission into the medical  
5 corps of any branch of the armed forces of the United States  
6 or the United States public health service."

7           SECTION 12. Section 61-10-15 NMSA 1978 (being  
8 Laws 1933, Chapter 117, Section 13, as amended) is repealed  
9 and a new Section 61-10-15 NMSA 1978 is enacted to read:

10           "61-10-15. REFUSAL AND REVOCATION OF LICENSE.--

11           A. Upon satisfactory proof being made to the board  
12 that an applicant for or holder of a license to practice  
13 osteopathic medicine has been guilty of unprofessional or  
14 dishonorable conduct, the board may:

15                       (1) refuse to issue a license to an  
16 applicant;

17                       (2) revoke or suspend a license; or

18                       (3) fine, censure or reprimand a licensee.

19           B. The board may, in its discretion and for good  
20 cause shown, place a licensee on probation on the terms and  
21 conditions it deems proper for protection of the public or  
22 for the purpose of rehabilitation of the probationer, or  
23 both. Upon expiration of the term of probation, if a term is  
24 set, the board may abate further proceedings if the licensee  
25 furnishes the board with evidence that the licensee is

1 competent to practice and has complied with the terms of  
2 probation.

3 C. If evidence fails to establish to the  
4 satisfaction of the board that the licensee is competent or  
5 if evidence shows that the licensee has not complied with the  
6 terms of probation, the board may revoke or suspend the  
7 licensee's license. If the board suspends a license, the  
8 licensee shall not practice during the term of suspension. A  
9 licensee whose license has been revoked or is in suspension  
10 and who thereafter practices or attempts or offers to  
11 practice in the state is guilty of a fourth degree felony and  
12 shall be sentenced under the provisions of the Criminal  
13 Sentencing Act to imprisonment for a definite period not to  
14 exceed eighteen months and, in the discretion of the  
15 sentencing court, to a fine not to exceed five thousand  
16 dollars (\$5,000), or both, unless:

17 (1) the period of suspension has expired;

18 (2) the board has modified the suspension to  
19 permit the practice of osteopathic medicine; or

20 (3) the board has reinstated the license.

21 D. The board shall not refuse to issue or renew a  
22 license nor shall it suspend or revoke a license for  
23 unprofessional or dishonorable conduct unless the person  
24 accused has been provided:

25 (1) at least twenty days' notice in writing

1 of the charge against that person; and

2 (2) a public hearing by the board, with  
3 right of review of the board's decision by the district court  
4 of the first judicial district by certiorari, on petition of  
5 the party against whom the board's decision is rendered.

6 E. The board may compel the attendance of  
7 witnesses and the production of relevant books and papers for  
8 the investigation of matters that may come before it, and the  
9 presiding officer of the board may administer the requisite  
10 oaths. The board has the same authority to compel the giving  
11 of testimony that is conferred on courts of justice.

12 F. As used in this section:

13 (1) "fee splitting" means offering,  
14 delivering, receiving or accepting any unearned rebate,  
15 refund, commission preference, patronage dividend, discount  
16 or other unearned consideration, whether in the form of money  
17 or otherwise, as compensation or inducement for referring  
18 patients, clients or customers to a person or organization,  
19 irrespective of any membership, proprietary interest or  
20 co-ownership in or with a person to whom the patients,  
21 clients or customers are referred; and

22 (2) "unprofessional or dishonorable conduct"  
23 means conduct that the board has proscribed by rule and  
24 includes the following conduct of a licensee:

25 (a) procuring, aiding or abetting an

1 illegal procedure;

2 (b) employing a person to solicit  
3 patients for the licensee;

4 (c) representing to a patient that a  
5 manifestly incurable condition of sickness, disease or injury  
6 can be cured;

7 (d) obtaining a fee by fraud or  
8 misrepresentation;

9 (e) willfully or negligently divulging  
10 a professional confidence;

11 (f) conviction of an offense punishable  
12 by incarceration in a state penitentiary or federal prison or  
13 conviction of a misdemeanor associated with the practice of  
14 the licensee. A copy of the record of conviction, certified  
15 by the clerk of the court entering the conviction, is  
16 conclusive evidence of conviction;

17 (g) habitual or excessive use of  
18 intoxicants or drugs;

19 (h) fraud or misrepresentation in  
20 applying for or procuring a license to practice in this state  
21 or in connection with applying for or procuring renewal,  
22 including cheating on or attempting to subvert a licensing  
23 examination;

24 (i) making false or misleading  
25 statements regarding the skill of the licensee or the

1 efficacy or value of the medicine, treatment or remedy  
2 prescribed or administered by the licensee or at the  
3 direction of the licensee in the treatment of a disease or  
4 other condition of the human body or mind;

5 (j) impersonating another licensee,  
6 permitting or allowing a person to use the license of the  
7 licensee or practicing as a licensee under a false or assumed  
8 name;

9 (k) aiding or abetting the practice of  
10 a person not licensed by the board;

11 (l) gross negligence in the practice of  
12 a licensee;

13 (m) manifest incapacity or incompetence  
14 to practice as a licensee;

15 (n) discipline imposed on a licensee by  
16 another state, including denial, probation, suspension or  
17 revocation, based upon acts by the licensee similar to acts  
18 described in this section. A certified copy of the record of  
19 suspension or revocation of the state making the suspension  
20 or revocation is conclusive evidence;

21 (o) the use of a false, fraudulent or  
22 deceptive statement in a document connected with the practice  
23 of a licensee;

24 (p) fee splitting;

25 (q) the prescribing, administering or

1 dispensing of narcotic, stimulant or hypnotic drugs for other  
2 than accepted therapeutic purposes;

3 (r) conduct likely to deceive, defraud  
4 or harm the public;

5 (s) repeated similar negligent acts;

6 (t) employing abusive billing  
7 practices;

8 (u) failure to report to the board any  
9 adverse action taken against the licensee by: 1) another  
10 licensing jurisdiction; 2) a peer review body; 3) a health  
11 care entity; 4) a professional or medical society or  
12 association; 5) a governmental agency; 6) a law enforcement  
13 agency; or 7) a court for acts or conduct similar to acts or  
14 conduct that would constitute grounds for disciplinary  
15 action;

16 (v) failure to report to the board  
17 surrender of a license or other authorization to practice in  
18 another state or jurisdiction or surrender of membership on  
19 any medical staff or in any medical or professional  
20 association or society following, in lieu of and while under  
21 disciplinary investigation by any of those authorities or  
22 bodies for acts or conduct similar to acts or conduct that  
23 would constitute grounds for disciplinary action;

24 (w) failure to furnish the board, its  
25 investigators or representatives with information requested

1 by the board;

2 (x) abandonment of a patient;

3 (y) being found mentally incompetent by  
4 a court of competent jurisdiction;

5 (z) injudicious prescribing,  
6 administering or dispensing of a drug or medicine;

7 (aa) failure to adequately supervise,  
8 as provided by board rule, an osteopathic physician or  
9 osteopathic physician assistant;

10 (bb) sexual contact with a patient or  
11 person who has authority to make medical decisions for a  
12 patient, other than the spouse of the licensee;

13 (cc) conduct unbecoming in a person  
14 licensed to practice or detrimental to the best interests of  
15 the public;

16 (dd) the surrender of a license or  
17 withdrawal of an application for a license before another  
18 state licensing board while an investigation or disciplinary  
19 action is pending before that board for acts or conduct  
20 similar to acts or conduct that would constitute grounds for  
21 action pursuant to this section;

22 (ee) sexual contact with a former  
23 patient of the licensee, other than the spouse of the  
24 licensee, within one year from the end of treatment;

25 (ff) sexual contact with a patient when

1 the licensee uses or exploits treatment, knowledge, emotions  
2 or influence derived from the previous professional  
3 relationship;

4 (gg) improper management of medical  
5 records, including failure to maintain timely, accurate,  
6 legible and complete medical records;

7 (hh) failure to provide pertinent and  
8 necessary medical records to another health care  
9 practitioner, to the patient of the osteopathic physician or  
10 to any other person in a timely manner when legally requested  
11 or authorized to do so by the patient or by a legally  
12 designated representative of the patient;

13 (ii) interaction with osteopathic  
14 physicians, hospital personnel, patients, family members or  
15 others that interferes with patient care or could reasonably  
16 be expected to adversely impact the quality of care rendered  
17 to a patient; or

18 (jj) willfully or negligently divulging  
19 privileged information or a professional secret."

20 SECTION 13. Section 61-10-17 NMSA 1978 (being  
21 Laws 1933, Chapter 117, Section 15, as amended) is amended to  
22 read:

23 "61-10-17. RECORDS.--The board shall keep a record,  
24 which shall be open to all proper parties for inspection at  
25 all reasonable times, of its proceedings relating to the

1 issuance, refusal, renewal, suspension or revocation of  
2 licenses to practice in accordance with the Osteopathic  
3 Medicine Act. This record shall also contain the name, place  
4 of business and residence, the date and the number of the  
5 license of every osteopathic physician and osteopathic  
6 physician assistant licensed under the Osteopathic Medicine  
7 Act."

8 SECTION 14. Section 61-10-18 NMSA 1978 (being  
9 Laws 1933, Chapter 117, Section 16) is amended to read:

10 "61-10-18. NO ADDITIONAL POWER CONFERRED ON PRIOR  
11 LICENSEES.--Nothing contained in the Osteopathic Medicine Act  
12 shall be construed as conferring any powers or authority not  
13 previously vested in osteopathic physicians or osteopathic  
14 physician assistants who hold licenses to practice  
15 osteopathic medicine under any pre-existing law or regulation  
16 unless such licensees are likewise licensed under the  
17 provisions of the Osteopathic Medicine Act."

18 SECTION 15. Section 61-10-19 NMSA 1978 (being  
19 Laws 1971, Chapter 140, Section 1, as amended) is amended to  
20 read:

21 "61-10-19. RENEWAL OF LICENSE--CERTIFICATE--FEE.--

22 A. All osteopathic physicians legally licensed to  
23 practice osteopathic medicine in this state shall, on or  
24 before July 1 of the third year after first-time licensure or  
25 the last licensure renewal, submit proof of completion of

1 continuing education requirements as required by the board  
2 and pay to the secretary of the board a triennial renewal fee  
3 as provided in Section 61-10-6.1 NMSA 1978 for the renewal of  
4 a license to practice osteopathic medicine. Upon payment of  
5 fees and proof of completion of continuing education  
6 requirements, the board shall issue a certificate of  
7 triennial renewal of license.

8 B. All osteopathic physician assistants legally  
9 licensed to practice osteopathic medicine in this state  
10 shall, on or before July 1 of the second year after  
11 first-time licensure or the last licensure renewal, submit  
12 proof of completion of continuing education requirements as  
13 required by the board and pay to the secretary of the board a  
14 biennial renewal fee as provided in Section 61-10-6.1  
15 NMSA 1978 for the renewal of a license to practice  
16 osteopathic medicine. Upon payment of fees and proof of  
17 completion of continuing education requirements, the board  
18 shall issue a certificate of biennial renewal of license.

19 C. The chair of the board shall send a written  
20 notice to every osteopathic physician and osteopathic  
21 physician assistant holding a legal certificate to practice  
22 osteopathic medicine in this state at least thirty days prior  
23 to July 1 of the year in which the osteopathic physician or  
24 osteopathic physician assistant is due for renewal of  
25 licensure. The notice shall be directed to the last known

1 address of the licensee, and notify the licensee that it will  
2 be necessary to pay the license renewal fee. Proper forms  
3 shall accompany the notice, and the licensee shall make  
4 application for the renewal of the licensee's certificate on  
5 these forms. The fact that a licensee has not received the  
6 licensee's blank form from the board shall not, however,  
7 relieve the licensee of the duty to register on or before  
8 July 1 of the year of renewal nor shall the board's failure  
9 to mail the forms operate to exempt the osteopathic physician  
10 or osteopathic physician assistant from the penalties  
11 provided in the Osteopathic Medicine Act."

12 SECTION 16. Section 61-10-20 NMSA 1978 (being  
13 Laws 1971, Chapter 140, Section 2, as amended) is amended to  
14 read:

15 "61-10-20. POST-GRADUATE EDUCATIONAL REQUIREMENTS.--For  
16 the purpose of protecting the health and well-being of the  
17 citizens of this state and for maintaining and continuing  
18 informed professional knowledge and awareness, the board  
19 shall establish mandatory continuing educational requirements  
20 for osteopathic physicians and osteopathic physician  
21 assistants licensed in this state. In establishing these  
22 requirements, the board shall recognize and give weight to  
23 existing educational methods, procedures, devices and  
24 programs in use among the various medical specialties and  
25 other recognized medical groups and the consensus of the

1 members of the medical community. This section does not  
2 abrogate or affect the status, force or operation of the  
3 Uniform Licensing Act. The board shall not establish and  
4 enforce these requirements if they will reduce the  
5 availability of osteopathic physicians or osteopathic  
6 physician assistants in a community to an extent that  
7 adequate medical care is jeopardized."

8 SECTION 17. Section 61-10-21 NMSA 1978 (being  
9 Laws 1945, Chapter 79, Section 7, as amended) is amended to  
10 read:

11 "61-10-21. FAILURE TO COMPLY--CANCELLATION OF LICENSE--  
12 REINSTATEMENT--TEMPORARY CANCELLATION AT LICENSEE'S  
13 REQUEST.--

14 A. In the event any osteopathic physician or  
15 osteopathic physician assistant licensed to practice  
16 osteopathic medicine in New Mexico fails to comply with the  
17 requirements of Section 61-10-19 NMSA 1978, the licensee  
18 shall, upon order of the board, forfeit the licensee's right  
19 to practice osteopathic medicine in this state and the  
20 licensee's license and certificate shall be canceled;  
21 provided, however, that the chair of the board may reinstate  
22 the licensee upon the payment of all fees due and upon the  
23 presentation of satisfactory evidence of the attendance at an  
24 educational program as provided for in the Osteopathic  
25 Medicine Act.

1           B. It is further provided that any osteopathic  
2 physician or osteopathic physician assistant licensed to  
3 practice osteopathic medicine in New Mexico desiring to  
4 withdraw from the active practice of osteopathic medicine in  
5 this state shall have the right to apply to the chair of the  
6 board for a temporary suspension of the licensee's  
7 certificate to practice osteopathic medicine in this state,  
8 with the right to renew and reinstate the certificate if the  
9 licensee so desires, upon a showing that the licensee has  
10 paid the appropriate fees on or before July 1 of the year in  
11 which the license is due for renewal."

12           SECTION 18. A new section of Chapter 61, Article 10  
13 NMSA 1978 is enacted to read:

14           "PRACTICING WITHOUT LICENSE--PENALTY.--

15           A. A person who practices osteopathic medicine or  
16 who attempts to practice osteopathic medicine without first  
17 complying with the provisions of the Osteopathic Medicine Act  
18 and without being the holder of a license entitling the  
19 person to practice osteopathic medicine in New Mexico is  
20 guilty of a fourth degree felony.

21           B. A person who practices osteopathic medicine  
22 across state lines or who attempts to practice osteopathic  
23 medicine across state lines without first complying with the  
24 provisions of the Osteopathic Medicine Act and without being  
25 the holder of a telemedicine license entitling the person to

1 practice osteopathic medicine across state lines is guilty of  
2 a fourth degree felony.

3 C. A person convicted pursuant to Subsection A or  
4 B of this section shall be sentenced under the provisions of  
5 the Criminal Sentencing Act to imprisonment for a definite  
6 period not to exceed eighteen months and, in the discretion  
7 of the sentencing court, to a fine not to exceed five  
8 thousand dollars (\$5,000), or both. Each occurrence of  
9 practicing osteopathic medicine or attempting to practice  
10 osteopathic medicine without complying with the Osteopathic  
11 Medicine Act shall be a separate violation."

12 SECTION 19. A new section of Chapter 61, Article 10  
13 NMSA 1978 is enacted to read:

14 "TELEMEDICINE LICENSE.--

15 A. The board shall issue a telemedicine license to  
16 allow the practice of osteopathic medicine across state lines  
17 to an applicant who holds a full and unrestricted license to  
18 practice osteopathic medicine in another state or territory  
19 of the United States. The board shall establish by rule the  
20 requirements for licensure; provided the requirements shall  
21 not be more restrictive than those required for licensure by  
22 endorsement.

23 B. A telemedicine license shall be issued for a  
24 period not to exceed three years and may be renewed upon  
25 application, payment of fees as provided in the Osteopathic

1 Medicine Act and compliance with other requirements  
2 established by rule of the board."

3 SECTION 20. A new section of Chapter 61, Article 10  
4 NMSA 1978 is enacted to read:

5 "LICENSURE--SUMMARY SUSPENSION--SUMMARY RESTRICTION--  
6 GROUNDS.--

7 A. The board may suspend or restrict a license to  
8 practice osteopathic medicine in New Mexico issued by the  
9 board without a hearing, simultaneously or at any time after  
10 the initiation of proceedings for a hearing provided pursuant  
11 to the Uniform Licensing Act, if the board finds that  
12 evidence in its possession indicates that the licensee:

13 (1) poses a clear and immediate danger to  
14 the public health and safety if the licensee continues to  
15 practice;

16 (2) has been adjudged mentally incompetent  
17 by a final order or adjudication by a court of competent  
18 jurisdiction; or

19 (3) has pled guilty to or has been found  
20 guilty of any offense relating to the practice of osteopathic  
21 medicine or any violent criminal offense in this state or a  
22 substantially equivalent criminal offense in another  
23 jurisdiction.

24 B. A licensee shall not be required to comply with  
25 a summary suspension or restriction of a license until notice

1 has been served in accordance with procedures established in  
2 board rules or the licensee has actual knowledge of an order  
3 of suspension or restriction, whichever occurs first.

4 C. A licensee whose license is suspended or  
5 restricted pursuant to this section shall be entitled to a  
6 hearing before the board pursuant to the Uniform Licensing  
7 Act within fifteen days from the date the licensee requests a  
8 hearing."

9 SECTION 21. A new section of Chapter 61, Article 10  
10 NMSA 1978 is enacted to read:

11 "BOARD COMMUNICATION--PROTECTED ACTIONS.--

12 A. A report to the board regarding actual or  
13 potential disciplinary action, including a complaint, shall  
14 be a confidential communication and is not a public record  
15 for the purposes of the Inspection of Public Records Act.

16 B. Any data, communication or information that the  
17 board acquires, prepares or disseminates relating to actual  
18 or potential disciplinary action or its investigation of a  
19 complaint shall not be disclosed except to the extent  
20 necessary to:

21 (1) carry out the duties of the board;

22 (2) make a judicial appeal of a board

23 action; or

24 (3) refer a case to a law enforcement  
25 agency, a national database clearinghouse or another

1 licensing board.

2 C. Information contained in a complaint filed with  
3 the board may be disclosed when the board or a court acts on  
4 a complaint and:

5 (1) issues a notice of contemplated action;  
6 or

7 (2) reaches a settlement before issuing a  
8 notice of contemplated action.

9 D. A person shall not be subject to any civil  
10 damages or criminal prosecution for providing information to  
11 the board, whether as a report, a complaint or as testimony."

12 SECTION 22. A new section of Chapter 61, Article 10  
13 NMSA 1978 is enacted to read:

14 "OSTEOPATHIC PHYSICIAN ASSISTANT--LICENSURE--SCOPE OF  
15 AUTHORITY--REGISTRATION OF SUPERVISION--CHANGE OF  
16 SUPERVISION.--

17 A. No person shall perform or attempt to perform  
18 as an osteopathic physician assistant without first applying  
19 for and obtaining a license from the board as an osteopathic  
20 physician assistant and having the person's supervision  
21 registered in accordance with board regulations.

22 B. Osteopathic physician assistants may prescribe,  
23 administer and distribute dangerous drugs other than  
24 controlled substances in Schedule I of the Controlled  
25 Substances Act pursuant to regulations adopted by the board

1 after consultation with the board of pharmacy if the  
2 prescribing, administering and distributing are done under  
3 the direction of a supervising physician; provided that such  
4 prescribing, administering and distributing are within the  
5 parameters of a board-approved formulary and guidelines  
6 established pursuant to Paragraph (3) of Subsection D of  
7 Section 61-10-5 NMSA 1978. The distribution process shall  
8 comply with state laws concerning prescription packaging,  
9 labeling and recordkeeping requirements.

10 C. An osteopathic physician assistant shall  
11 perform only those acts and duties assigned by a supervising  
12 physician that are within the scope of practice of such  
13 physician.

14 D. An applicant for a license as an osteopathic  
15 physician assistant shall complete application forms that the  
16 board supplies and pay a fee as provided in Section 61-10-6.1  
17 NMSA 1978. Upon licensing by the board, the applicant shall  
18 have the applicant's name and address and other pertinent  
19 information enrolled by the board on a roster of osteopathic  
20 physician assistants.

21 E. Each osteopathic physician assistant shall  
22 biennially submit proof of completion of continuing education  
23 as required by the board and register the osteopathic  
24 physician assistant's name and current address, the name and  
25 office address of the supervising physician and such

1 additional information as the board deems necessary.

2 F. In addition to the biennial requirements  
3 regarding the osteopathic physician assistant's supervising  
4 physician in Subsection E of this section, each osteopathic  
5 physician assistant has an ongoing duty to notify the board  
6 of a termination of supervision and to register the name and  
7 office address of a new supervising physician and the date on  
8 which supervision will commence. Each biennial registration  
9 or registration of new supervision shall be accompanied by a  
10 fee as provided in Section 61-10-6.1 NMSA 1978."

11 SECTION 23. A new section of Chapter 61, Article 10  
12 NMSA 1978 is enacted to read:

13 "OSTEOPATHIC PHYSICIAN ASSISTANTS--INACTIVE LICENSE.--

14 A. An osteopathic physician assistant who notifies  
15 the board in writing on forms prescribed by the board may  
16 elect to place the osteopathic physician assistant's license  
17 on an inactive status. An osteopathic physician assistant  
18 with an inactive license shall be excused from payment of  
19 renewal fees and shall not practice as an osteopathic  
20 physician assistant.

21 B. An osteopathic physician assistant who engages  
22 in practice while the osteopathic physician assistant's  
23 license is lapsed or on inactive status is practicing without  
24 a license and is subject to discipline pursuant to the  
25 Osteopathic Medicine Act.

1           C. An osteopathic physician assistant requesting  
2 restoration from inactive status shall pay the current  
3 renewal fee and fulfill the requirement for renewal pursuant  
4 to the Osteopathic Medicine Act."

5           SECTION 24. A new section of Chapter 61, Article 10  
6 NMSA 1978 is enacted to read:

7           "OSTEOPATHIC PHYSICIAN ASSISTANTS--EXEMPTION FROM  
8 LICENSURE.--

9           A. An osteopathic physician assistant student  
10 enrolled in a physician assistant or osteopathic physician  
11 assistant educational program accredited by the commission on  
12 accreditation of allied health education programs or by its  
13 successor shall be exempt from licensure while functioning as  
14 an osteopathic physician assistant student.

15           B. An osteopathic physician assistant employed by  
16 the federal government while performing duties incident to  
17 that employment is not required to be licensed as an  
18 osteopathic physician assistant pursuant to the Osteopathic  
19 Medicine Act."

20           SECTION 25. A new section of Chapter 61, Article 10  
21 NMSA 1978 is enacted to read:

22           "RESPONSIBILITY.--Every osteopathic physician using,  
23 supervising or employing a registered osteopathic physician  
24 assistant shall be individually responsible and liable for  
25 the performance of the acts and omissions delegated to the

1 osteopathic physician assistant. Nothing in the Osteopathic  
2 Medicine Act shall be construed to relieve the osteopathic  
3 physician assistant of responsibility and liability for any  
4 of the osteopathic physician assistant's own acts and  
5 omissions. An osteopathic physician assistant shall be  
6 supervised by an osteopathic physician in accordance with  
7 board rules."

8 SECTION 26. Section 61-10-22 NMSA 1978 (being  
9 Laws 1979, Chapter 36, Section 2, as amended) is amended to  
10 read:

11 "61-10-22. TERMINATION OF AGENCY LIFE--DELAYED  
12 REPEAL.--The board of osteopathic medicine is terminated on  
13 July 1, 2021 pursuant to the Sunset Act. The board shall  
14 continue to operate according to the provisions of the  
15 Osteopathic Medicine Act until July 1, 2022. Effective  
16 July 1, 2022, the Osteopathic Medicine Act is repealed."

17 SECTION 27. Section 61-11B-3 NMSA 1978 (being  
18 Laws 1993, Chapter 191, Section 3) is amended to read:

19 "61-11B-3. PHARMACIST CLINICIAN PRESCRIPTIVE  
20 AUTHORITY.--

21 A. A pharmacist clinician planning to exercise  
22 prescriptive authority in practice shall have on file at the  
23 place of practice written guidelines or protocol. The  
24 guidelines or protocol shall authorize a pharmacist clinician  
25 to exercise prescriptive authority and shall be established

1 and approved by a practitioner in accordance with regulations  
2 adopted by the board. A copy of the written guidelines or  
3 protocol shall be on file with the board. The practitioner  
4 who is a party to the guidelines or protocol shall be in  
5 active practice and the prescriptive authority that the  
6 practitioner grants to a pharmacist clinician shall be within  
7 the scope of the practitioner's current practice.

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

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

13 (2) a statement of the types of prescriptive  
14 authority decisions that the pharmacist clinician is  
15 authorized to make, which may include:

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

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

24 (3) a statement of the activities the  
25 pharmacist clinician is to follow in the course of exercising

1 prescriptive authority, including documentation of decisions  
2 made and a plan for communication or feedback to the  
3 authorizing practitioner concerning specific decisions made.  
4 Documentation may occur on the prescriptive record, patient  
5 profile, patient medical chart or in a separate log book; and

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

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

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

14 E. The board shall adopt regulations to carry out  
15 the provisions of the Pharmacist Prescriptive Authority Act.

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

21 SECTION 28. TEMPORARY PROVISION--BOARD OF OSTEOPATHIC  
22 MEDICAL EXAMINERS--BOARD OF OSTEOPATHIC MEDICINE.--The name  
23 of the board of osteopathic medical examiners is changed to  
24 the "board of osteopathic medicine". On the effective date  
25 of this act, all references in law to the board of

1 osteopathic medical examiners shall be construed to be  
2 references to the board of osteopathic medicine. All  
3 references in law to the chair or members of the board of  
4 osteopathic medical examiners shall be construed to be  
5 references to the chair or members of the board of  
6 osteopathic medicine.

7 SECTION 29. REPEAL.--Sections 61-10-1, 61-10-13 and  
8 61-10A-1 through 61-10A-7 NMSA 1978 (being Laws 1933,  
9 Chapter 117, Sections 1 and 11, Laws 1979, Chapter 26,  
10 Sections 1 through 4, Laws 1989, Chapter 9, Section 8,  
11 Laws 1997, Chapter 187, Sections 12 and 13 and Laws 1979,  
12 Chapter 26, Sections 5 through 7, as amended) are repealed.

13 SECTION 30. EFFECTIVE DATE.--The effective date of the  
14 provisions of this act is July 1, 2016. \_\_\_\_\_

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