

1 SENATE BILL 279

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Bill B. O'Neill

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10 AN ACT

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

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

22 "7-9-77.1. DEDUCTION--GROSS RECEIPTS TAX--CERTAIN MEDICAL
23 AND HEALTH CARE SERVICES.--

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

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

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

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

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

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

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

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

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

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

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1 whether the deductions are providing a benefit to the state.

2 I. For the purposes of this section:

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

5 (2) "dialysis facility" means an end-stage
6 renal disease facility as defined pursuant to 42 C.F.R.
7 405.2102;

8 (3) "health care practitioner" means:

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

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

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

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

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

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

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

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- 1 (h) a massage therapist licensed
2 pursuant to the Massage Therapy Practice Act;
- 3 (i) a naprapath licensed pursuant to the
4 Naprapathic Practice Act;
- 5 (j) a nutritionist or dietitian licensed
6 pursuant to the Nutrition and Dietetics Practice Act;
- 7 (k) an occupational therapist licensed
8 pursuant to the Occupational Therapy Act;
- 9 (l) an optometrist licensed pursuant to
10 the Optometry Act;
- 11 (m) an osteopathic physician licensed
12 pursuant to the ~~[Osteopathic Medicine]~~ Medical Practice Act;
- 13 (n) a pharmacist licensed pursuant to
14 the Pharmacy Act;
- 15 (o) a physical therapist licensed
16 pursuant to the Physical Therapy Act;
- 17 (p) a physician licensed pursuant to the
18 Medical Practice Act;
- 19 (q) a podiatrist licensed pursuant to
20 the Podiatry Act;
- 21 (r) a psychologist licensed pursuant to
22 the Professional Psychologist Act;
- 23 (s) a radiologic technologist licensed
24 pursuant to the Medical Imaging and Radiation Therapy Health
25 and Safety Act;

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

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

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

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

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

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

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

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

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

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

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

11 "21-22D-3. DEFINITIONS.--As used in the Health
12 Professional Loan Repayment Act:

13 A. "department" means the higher education
14 department;

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

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

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

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

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

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

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

17 "21-22D-12. OSTEOPATHIC PHYSICIAN EXCELLENCE FUND.--The
18 department shall apply funds appropriated to the department
19 from the osteopathic physician excellence fund established
20 pursuant to Section [~~3 of this 2019 act~~] 21-22D-13 NMSA 1978
21 exclusively for health professional loan repayment assistance
22 for osteopathic primary care physicians who are licensed
23 pursuant to the [~~Osteopathic Medicine~~] Medical Practice Act and
24 who practice in areas of New Mexico that the department has
25 designated as underserved."

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

3 "21-26-4. INTERN PROGRAM--~~[BOARD]~~ HIGHER EDUCATION
4 DEPARTMENT CONTRACT--REGULATIONS.--The ~~[board]~~ higher education
5 department shall:

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

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

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

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

23 "22-13-31. BRAIN INJURY--PROTOCOLS TO BE USED BY COACHES
24 FOR BRAIN INJURIES RECEIVED BY STUDENTS IN SCHOOL ATHLETIC
25 ACTIVITIES--TRAINING OF COACHES AND STUDENT ATHLETES--

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

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

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

14 (2) has been diagnosed with a brain injury.

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

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

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

25 C. Each school district shall ensure that each

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

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

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

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

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

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

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

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

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

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

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

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

3 G. As used in this section:

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

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

11 (3) "licensed health care professional" means:

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

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

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

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

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

25 (f) a practicing athletic trainer

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

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

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

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

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

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

25 "22-13-31.1. BRAIN INJURY--PROTOCOLS--TRAINING OF
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1 COACHES--BRAIN INJURY EDUCATION.--

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

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

10 (2) has been diagnosed with a brain injury.

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

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

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

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

25 D. The department of health shall consult with the

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1 brain injury advisory council to promulgate rules to establish:

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

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

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

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

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

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

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

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

14 F. As used in this section:

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

19 (2) "licensed health care professional" means:

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

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

25 (c) a practicing certified nurse

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1 practitioner licensed pursuant to the Nursing Practice Act;

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

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

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

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

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

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

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1 nonathletic program."

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

4 "24-2D-5.2. OVERDOSE PREVENTION AND PAIN MANAGEMENT
5 ADVISORY COUNCIL CREATED--DUTIES.--

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

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

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

15 "24-14C-2. DEFINITIONS.--As used in the Health Care Work
16 Force Data Collection, Analysis and Policy Act:

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

25 B. "chancellor" means the chancellor for health

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1 sciences of the university of New Mexico;

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

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

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

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

- 19 (1) American Indian or Alaska Native;
 - 20 (2) Asian;
 - 21 (3) Black or African American;
 - 22 (4) Native Hawaiian or other Pacific Islander;
 - 23 (5) White; or
 - 24 (6) a mixture of any of the categories listed
- 25 in Paragraphs (1) through (5) of this subsection; and

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

3 **SECTION 10.** Section 27-2-12.30 NMSA 1978 (being Laws
4 2020, Chapter 58, Section 2) is amended to read:

5 "27-2-12.30. PHARMACIST PRESCRIPTIVE AUTHORITY SERVICES--
6 REIMBURSEMENT PARITY.--A medical assistance program or its
7 contractor shall reimburse a participating provider that is a
8 certified pharmacist clinician or pharmacist certified to
9 provide a prescriptive authority service who provides a service
10 at the standard contracted rate that the medical assistance
11 program reimburses, for the same service under that program,
12 any licensed physician or physician assistant licensed pursuant
13 to the Medical Practice Act [~~or the Osteopathic Medicine Act~~]
14 or any advanced practice certified nurse practitioner licensed
15 pursuant to the Nursing Practice Act."

16 **SECTION 11.** Section 59A-22-53.2 NMSA 1978 (being Laws
17 2020, Chapter 58, Section 3) is amended to read:

18 "59A-22-53.2. PHARMACIST PRESCRIPTIVE AUTHORITY
19 SERVICES--REIMBURSEMENT PARITY.--An insurer shall reimburse a
20 participating provider that is a certified pharmacist clinician
21 or pharmacist certified to provide a prescriptive authority
22 service who provides a service pursuant to a health insurance
23 plan, policy or certificate of health insurance at the standard
24 contracted rate that the health insurance policy, health care
25 plan or certificate of health insurance reimburses, for the

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

6 SECTION 12. Section 59A-23-12.2 NMSA 1978 (being Laws
7 2020, Chapter 58, Section 4) is amended to read:

8 "59A-23-12.2. PHARMACIST PRESCRIPTIVE AUTHORITY
9 SERVICES--REIMBURSEMENT PARITY.--An insurer shall reimburse a
10 participating provider that is a certified pharmacist clinician
11 or pharmacist certified to provide a prescriptive authority
12 service who provides a service pursuant to a health insurance
13 plan, policy or certificate of health insurance at the standard
14 contracted rate that the health insurance policy, health care
15 plan or certificate of health insurance reimburses, for the
16 same service pursuant to that policy, plan or certificate, any
17 licensed physician or physician assistant licensed pursuant to
18 the Medical Practice Act [~~or the Osteopathic Medicine Act~~] or
19 any advanced practice certified nurse practitioner licensed
20 pursuant to the Nursing Practice Act."

21 SECTION 13. Section 59A-46-52.2 NMSA 1978 (being Laws
22 2020, Chapter 58, Section 5) is amended to read:

23 "59A-46-52.2. PHARMACIST PRESCRIPTIVE AUTHORITY
24 SERVICES--REIMBURSEMENT PARITY.--A carrier shall reimburse a
25 participating provider that is a certified pharmacist clinician

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

10 SECTION 14. Section 59A-47-47.2 NMSA 1978 (being Laws
11 2020, Chapter 58, Section 6) is amended to read:

12 "59A-47-47.2. PHARMACIST PRESCRIPTIVE AUTHORITY
13 SERVICES--REIMBURSEMENT PARITY.--A health care plan shall
14 reimburse a participating provider that is a certified
15 pharmacist clinician or pharmacist certified to provide a
16 prescriptive authority service who provides a service pursuant
17 to a subscriber at the same rate that the carrier reimburses,
18 for the standard contracted service under that subscriber
19 contract, any licensed physician or physician assistant
20 licensed pursuant to the Medical Practice Act [~~or the~~
21 ~~Osteopathic Medicine Act~~] or any advanced practice certified
22 nurse practitioner licensed pursuant to the Nursing Practice
23 Act."

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

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1 "61-2-14.1. CONTACT LENSES--SPECTACLES--LIMITATIONS ON
2 PRESCRIPTIONS--CRIMINAL PENALTY--CIVIL REMEDY--EXCEPTIONS.--

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

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

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

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

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

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

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

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

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

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

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

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

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

25 F. As used in this section:

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

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

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

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

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

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

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

25 (4) "kiosk" means any automatic or electronic

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

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

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

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

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

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

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1 "61-6-1. SHORT TITLE--PURPOSE.--

2 A. Chapter 61, Article 6 NMSA 1978 may be cited as
3 the "Medical Practice Act".

4 B. In the interest of the public health, safety and
5 welfare and to protect the public from the improper,
6 unprofessional, incompetent and unlawful practice of medicine,
7 it is necessary to provide laws and rules controlling the
8 granting and use of the privilege to practice medicine and to
9 establish a medical board to implement and enforce the laws and
10 rules.

11 C. The primary duties and obligations of the
12 medical board are to issue licenses to qualified health care
13 practitioners, including physicians, physician assistants and
14 anesthesiologist assistants, to discipline incompetent or
15 unprofessional physicians, physician assistants or
16 anesthesiologist assistants and to aid in the rehabilitation of
17 impaired physicians, physician assistants and anesthesiologist
18 assistants for the purpose of protecting the public."

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

21 "61-6-2. NEW MEXICO MEDICAL BOARD--APPOINTMENT--TERMS--
22 QUALIFICATIONS.--

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

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1 reputable osteopathic physicians and six reputable medical
2 physicians. The two osteopathic physicians and six medical
3 physicians shall be of known ability, ~~[who are]~~ shall be
4 graduates of medical colleges or schools in good standing and
5 ~~[who]~~ shall have been licensed physicians in and bona fide
6 residents of New Mexico for a period of five years immediately
7 preceding the date of their appointment. The physician
8 assistant shall have been a licensed physician assistant and a
9 resident of New Mexico for at least five years immediately
10 preceding the date of appointment. Public members of the board
11 shall be residents of New Mexico, shall not have been licensed
12 by the board ~~[or have practiced as physicians]~~ as a health care
13 practitioner over which the board has licensure authority and
14 shall have no significant financial interest, direct or
15 indirect, in the occupation regulated.

16 B. The governor shall appoint the medical physician
17 members from a list of names submitted to the governor by the
18 New Mexico medical society or its authorized governing body or
19 council. The list shall contain five names of qualified
20 medical physicians for each medical physician member to be
21 appointed. Medical physician member vacancies shall be filled
22 in the same manner.

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

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

5 ~~[G.]~~ D. The governor shall appoint the physician
6 assistant member from a list of names submitted to the governor
7 by the New Mexico academy of physician assistants or its
8 authorized governing body or council. The list shall contain
9 five names of qualified physician assistants.

10 ~~[D.]~~ E. Members shall be appointed to four-year
11 terms, staggered so that not more than three terms expire in a
12 year. All board members shall hold office until their
13 successors are appointed ~~[and qualified]~~.

14 ~~[E.]~~ F. A board member failing to attend three
15 consecutive meetings, either regular or special, shall
16 automatically be removed as a member of the board unless
17 excused from attendance by the board for good cause shown."

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

- 20 "61-6-3. MEETINGS OF THE BOARD--QUORUM.--
21 A. The board shall hold four regular meetings every
22 fiscal year.
23 B. During the second quarter of each year, the
24 board shall hold its annual meeting ~~[during which it]~~ and shall
25 elect officers.

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1 C. In addition to the regular meetings, the board
2 may hold special meetings at the call of the president after
3 written notice to all members of the board or at the written or
4 electronic request of any two members.

5 D. A majority of the members of the board shall
6 constitute a quorum and shall be capable of conducting any
7 board business. The vote of a majority of a quorum shall
8 prevail, even though the vote may not represent an actual
9 majority of all the board members."

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

12 "61-6-4. ELECTION--DUTIES OF OFFICERS--REIMBURSEMENT OF
13 BOARD MEMBERS.--

14 A. At its annual meeting, the board shall elect a
15 chair, a vice chair and a secretary-treasurer.

16 B. The chair shall preside over the meetings and
17 affairs of the board.

18 C. The vice chair shall perform such duties as may
19 be assigned by the chair and shall serve as chair due to the
20 absence or incompetence of the chair.

21 D. The secretary-treasurer shall be a physician
22 member of the board and shall:

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

25 (2) issue temporary licenses pursuant to

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1 Section 61-6-14 NMSA 1978;

2 (3) serve on committees related to board
3 activities that require physician participation;

4 (4) serve as a consultant on medical practice
5 issues when a board action is not required; and

6 (5) perform any other functions assigned by
7 the board or by the chair.

8 E. The secretary-treasurer may be compensated at
9 the discretion of the board.

10 F. Board members shall receive per diem and mileage
11 as provided in the Per Diem and Mileage Act and shall receive
12 no other compensation, perquisite or allowance, except that the
13 secretary-treasurer may be additionally compensated as provided
14 in Subsection E of this section and board members may be
15 additionally compensated in accordance with Subsection G of
16 this section.

17 G. Board members or agents performing interviews of
18 applicants may be compensated at the board's discretion."

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

21 "61-6-5. DUTIES AND POWERS.--The board shall:

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

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

3 B. adopt, publish and file, in accordance with the
4 Uniform Licensing Act and the State Rules Act, all rules for
5 the implementation and enforcement of the provisions of the
6 Medical Practice Act, the Physician Assistant Act, the
7 Anesthesiologist Assistants Act, the Genetic Counseling Act,
8 the Impaired Health Care Provider Act, the Polysomnography
9 Practice Act, the Naturopathic Doctors' Practice Act and the
10 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 and
22 fines;

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

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1 accordance with the Uniform Licensing Act for any cause stated
2 in the Medical Practice Act, the Impaired Health Care Provider
3 Act, the Naturopathic Doctors' Practice Act and the Naprapathic
4 Practice Act;

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

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

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

17 L. establish continuing ~~[medical]~~ education
18 requirements for licensed ~~[physicians and continuing education~~
19 ~~requirements for physician assistants]~~ practitioners over which
20 the board has authority;

21 M. establish committees as it deems necessary for
22 carrying on its business;

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

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

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

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

10 "61-6-6. DEFINITIONS.--As used in the Medical Practice
11 Act:

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

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

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

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

25 (2) collaboration shall not be construed to

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

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

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

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

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

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

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1 board;

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

6 J. "resident" means a graduate of a medical college
7 or school in good standing who is in training in a board-
8 approved and accredited residency training program in a
9 hospital or facility affiliated with an approved hospital and
10 who has been appointed to the position of "resident" or
11 "fellow" for the purpose of postgraduate medical training;

12 K. "the practice of medicine" consists of:

13 (1) advertising, holding out to the public or
14 representing in any manner that one is authorized to practice
15 medicine or to practice health care that is under the authority
16 of the board in this state;

17 (2) offering or undertaking to administer,
18 dispense or prescribe a drug or medicine for the use of another
19 person, except as authorized pursuant to a professional or
20 occupational licensing statute set forth in Chapter 61 NMSA
21 1978;

22 (3) offering or undertaking to give or
23 administer, dispense or prescribe a drug or medicine for the
24 use of another person, except as directed by a licensed
25 physician;

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1 (4) offering or undertaking to perform an
2 operation or procedure upon a person;

3 (5) offering or undertaking to diagnose,
4 correct or treat in any manner or by any means, methods,
5 devices or instrumentalities any disease, illness, pain, wound,
6 fracture, infirmity, deformity, defect or abnormal physical or
7 mental condition of a person;

8 (6) offering medical peer review, utilization
9 review or diagnostic service of any kind that directly
10 influences patient care, except as authorized pursuant to a
11 professional or occupational licensing statute set forth in
12 Chapter 61 NMSA 1978; or

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

15 L. "the practice of medicine across state lines"
16 means:

17 (1) the rendering of a written or otherwise
18 documented medical opinion concerning diagnosis or treatment of
19 a patient within this state by a physician located outside this
20 state as a result of transmission of individual patient data by
21 electronic, telephonic or other means from within this state to
22 the physician or the physician's agent; or

23 (2) the rendering of treatment to a patient
24 within this state by a physician located outside this state as
25 a result of transmission of individual patient data by

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

3 M. "sexual contact" means touching the primary
4 genital area, groin, anus, buttocks or breast of a patient or
5 allowing a patient to touch another's primary genital area,
6 groin, anus, buttocks or breast in a manner that is commonly
7 recognized as outside the scope of acceptable medical or health
8 care practice;

9 N. "sexual penetration" means sexual intercourse,
10 cunnilingus, fellatio or anal intercourse, whether or not there
11 is any emission, or introducing any object into the genital or
12 anal openings of another in a manner that is commonly
13 recognized as outside the scope of acceptable medical or health
14 care practice; and

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

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

19 "61-6-7.2. INACTIVE LICENSE.--

20 A. A physician assistant license shall expire every
21 two years on a date established by the board.

22 B. A physician assistant who notifies the board in
23 writing on forms prescribed by the board may elect to place
24 [his] the physician assistant's license on an inactive status.

25 A physician assistant with an inactive license shall be excused

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

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

8 D. A physician assistant requesting restoration
9 from inactive status shall pay the current renewal fee and
10 fulfill the requirement for renewal pursuant to the Physician
11 Assistant Act and Medical Practice Act.

12 E. The board may, in its discretion, summarily
13 suspend for nonpayment of fees the license of a physician
14 assistant who has not renewed ~~[his]~~ the physician assistant's
15 license within ninety days of expiration.

16 F. A physician assistant who has not submitted an
17 application for renewal on or before the license expiration
18 date, but who has submitted an application for renewal within
19 forty-five days after the license expiration date, shall be
20 assessed a late fee.

21 G. A physician assistant who has not submitted an
22 application for renewal between forty-six and ninety days after
23 the expiration date shall be assessed a late fee."

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

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1 "61-6-10.6. INACTIVE LICENSE.--

2 A. An anesthesiologist assistant who notifies the
3 board in writing on forms prescribed by the board may elect to
4 place ~~[his]~~ the anesthesiologist assistant's license on
5 inactive status. An anesthesiologist assistant with an
6 inactive license shall be excused from payment of renewal fees
7 and shall not practice as an anesthesiologist assistant.

8 B. An anesthesiologist assistant who engages in
9 practice while ~~[his]~~ the anesthesiologist assistant's license
10 is lapsed or on inactive status is practicing without a license
11 and is subject to disciplinary action pursuant to the
12 Anesthesiologist Assistants Act and Medical Practice Act.

13 C. An anesthesiologist assistant requesting
14 restoration from inactive status shall pay the current renewal
15 fee and fulfill the requirement for renewal pursuant to the
16 Anesthesiologist Assistants Act."

17 SECTION 24. Section 61-6-10.11 NMSA 1978 (being Laws
18 2015, Chapter 52, Section 3) is amended to read:

19 "61-6-10.11. ANESTHESIOLOGIST ASSISTANTS--EMPLOYMENT
20 CONDITIONS.--An anesthesiologist assistant shall:

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

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

25 (1) be certified as an anesthesiologist

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1 assistant by the national commission for certification of
2 anesthesiologist assistants;

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

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

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

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

17 "61-6-11. PHYSICIAN LICENSURE.--

18 A. The board may consider for licensure a person
19 who is of good moral character, is a graduate of an accredited
20 United States or Canadian medical or osteopathic medical
21 school, has passed an examination approved by the board and has
22 completed two years of an approved postgraduate training
23 program for physicians.

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

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1 who otherwise meets all other licensing requirements, may
2 present evidence to the board of the applicant's other
3 professional experience for consideration by the board in lieu
4 of the approved postgraduate training program. The board
5 shall, in its sole discretion, determine if the professional
6 experience is substantially equivalent to the required approved
7 postgraduate training program for physicians.

8 C. A graduate of a board-approved medical or
9 osteopathic medical school located outside the United States or
10 Canada may be granted a license to practice medicine in New
11 Mexico, provided the applicant presents evidence to the board
12 that the applicant is a person of good moral character [~~and is~~
13 ~~in compliance with the United States immigration laws~~] and
14 provided that the applicant presents satisfactory evidence to
15 the board that the applicant has successfully passed an
16 examination as required by the board and has successfully
17 completed two years of postgraduate medical training in an
18 approved postgraduate training program for physicians. A
19 graduate of a medical school located outside the United States
20 who successfully completes at least two years of an approved
21 postgraduate training program for physicians at or affiliated
22 with an institution located in New Mexico prior to December 30,
23 2007 and who meets the other requirements of this section may
24 also be granted a license to practice medicine.

25 D. All applicants for licensure may be required to

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1 appear personally before the board or a designated agent for an
2 interview.

3 E. An applicant for licensure by examination shall
4 not be granted a license if the applicant has taken the
5 examination in two or more steps and has failed to successfully
6 pass the final step within seven years of the date that the
7 first step was passed. An applicant for licensure who holds a
8 medical or osteopathic doctor degree and a doctoral degree in a
9 medically related field must successfully complete the entire
10 examination series within ten years from the date the first
11 step of the examination is passed. [~~Provided, that~~] The board
12 may, by rule, establish exceptions to the time requirements of
13 this subsection.

14 F. Every applicant for licensure under this section
15 shall pay the fees required by Section 61-6-19 NMSA 1978.

16 G. The board may require fingerprints and other
17 information necessary for a state and national criminal
18 background check."

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

21 "61-6-11.1. TELEMEDICINE LICENSE.--

22 A. The board shall issue a licensed physician a
23 telemedicine license to allow the practice of medicine across
24 state lines to an applicant who holds a full and unrestricted
25 license to practice medicine in another state or territory of

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1 the United States. The board shall establish by rule the
2 requirements for licensure; provided the requirements shall not
3 be more restrictive than those required for licensure by
4 endorsement.

5 B. A telemedicine license shall be issued for a
6 period not to exceed three years and may be renewed upon
7 application, payment of fees as provided in Section 61-6-19
8 NMSA 1978 and compliance with other requirements established by
9 rule of the board."

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

12 "61-6-12. CRIMINAL OFFENDER'S CHARACTER EVALUATION.--The
13 provisions of the Criminal Offender Employment Act shall govern
14 any consideration of criminal records required or permitted by
15 the Medical Practice Act and to all health care practitioners
16 over which the board has licensure authority."

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

19 "61-12G-6. SCOPE OF PRACTICE.--

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

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

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1 (2) in alignment with naturopathic medical
2 education to:

3 (a) perform physical examinations;
4 (b) order laboratory examinations;
5 (c) order diagnostic imaging studies;
6 (d) interpret the results of laboratory
7 examinations for diagnostic purposes;

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

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

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

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

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

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

4 (j) perform naturopathic physical
5 medicine;

6 (k) employ the use of naturopathic
7 therapy; and

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

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

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

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

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

23 "61-12G-7. REFERRAL REQUIREMENT.--A licensee shall refer
24 to a physician authorized to practice in the state under the
25 Medical Practice Act [~~or the Osteopathic Medicine Act~~] any

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

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

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

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

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

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

15 (3) has been a licensed physician in the
16 United States or Canada and has practiced medicine in the
17 United States or Canada immediately preceding the application
18 for at least three years;

19 (4) holds an unrestricted license in another
20 state or Canada; and

21 (5) was not the subject of a disciplinary
22 action in a state or province.

23 B. The board may grant a physician license by
24 endorsement to an applicant who:

25 (1) has graduated from a medical or

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1 osteopathic medical school located outside the United States or
2 Canada;

3 (2) is of good moral character;

4 ~~[(3) is in compliance with the United States~~
5 ~~immigration laws;~~

6 ~~(4)]~~ (3) is board certified in a specialty
7 recognized by the American board of medical specialties, the
8 American osteopathic association or other boards as approved by
9 the board;

10 ~~[(5)]~~ (4) has been a licensed physician in the
11 United States or Canada and has practiced medicine in the
12 United States or Canada immediately preceding the application
13 for at least three years;

14 ~~[(6)]~~ (5) holds an unrestricted license in
15 another state or Canada; and

16 ~~[(7)]~~ (6) was not the subject of disciplinary
17 action in a state or province.

18 C. An endorsement provided pursuant to this section
19 shall certify that the applicant has passed an examination that
20 meets with board approval and that the applicant is in good
21 standing in that jurisdiction. In cases when the applicant is
22 board certified, has not been the subject of disciplinary
23 action that would be reportable to the national practitioner
24 data bank or the healthcare integrity and protection data bank
25 and has unusual skills and experience not generally available

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1 in this state, and patients residing in this state have a
2 significant need for such skills and experience, the board may
3 waive a requirement imposing time limits for examination
4 completion that are different from requirements of the state
5 where the applicant is licensed.

6 D. An applicant for licensure under this section
7 may be required to personally appear before the board or a
8 designated agent for an interview.

9 E. An applicant for licensure under this section
10 shall pay an application fee as provided in Section 61-6-19
11 NMSA 1978.

12 F. The board may require fingerprints and other
13 information necessary for a state and national criminal
14 background check."

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

17 "61-6-14. ORGANIZED YOUTH CAMP OR SCHOOL TEMPORARY
18 LICENSES AND TEMPORARY LICENSES FOR OUT-OF-STATE
19 PHYSICIANS.--

20 A. The secretary-treasurer of the board or the
21 board's designee may, either by examination or endorsement,
22 approve a temporary license to practice medicine [~~and surgery~~]
23 to an applicant qualified to practice medicine [~~and surgery~~] in
24 this state who will be temporarily in attendance at an
25 organized youth camp or school, provided that:

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1 (1) the practice shall be confined to
2 enrollees, leaders and employees of the camp or school;

3 (2) the temporary license shall be issued for
4 a period not to exceed three months from date of issuance; and

5 (3) the temporary license may be issued upon
6 written application of the applicant, accompanied by such proof
7 of the qualifications of the applicant as specified by board
8 rule.

9 B. The secretary-treasurer of the board or the
10 board's designee may approve a temporary license to practice
11 medicine [~~and surgery~~] under the supervision of a licensed
12 physician to an applicant who is licensed to practice medicine
13 in another state, territory of the United States or another
14 country and who is qualified to practice medicine [~~and surgery~~]
15 in this state. The following provisions shall apply:

16 (1) the temporary license may be issued upon
17 written application of the applicant, accompanied by proof of
18 qualifications as specified by rule of the board. A temporary
19 license may be granted to allow the applicant to assist in
20 teaching, conducting research, performing specialized
21 diagnostic and treatment procedures, implementing new
22 technology and for physician educational purposes. A licensee
23 may engage in only the activities specified on the temporary
24 license, and the temporary license shall identify the licensed
25 physician who will supervise the applicant during the time the

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1 applicant practices medicine in New Mexico. The supervising
2 licensed physician shall submit an affidavit attesting to the
3 qualifications of the applicant and activities the applicant
4 will perform; and

5 (2) the temporary license shall be issued for
6 a period not to exceed three months from date of issuance and
7 may be renewed upon application and payment of fees as provided
8 in Section 61-6-19 NMSA 1978.

9 C. The application for a temporary license under
10 this section shall be accompanied by a license fee as provided
11 in Section 61-6-19 NMSA 1978."

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

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

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

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1 ~~[medicine]~~ as a physician, practice as a physician assistant
2 ~~[of]~~, an anesthesiologist assistant, ~~[practice]~~ a genetic
3 ~~[counseling]~~ counselor, a naturopathic practitioner or
4 naprapathic practitioner or ~~[engage in the]~~ practice ~~[of]~~
5 polysomnography, pursuant to Section 61-7-3 NMSA 1978. All
6 proceedings shall be as required by the Uniform Licensing Act
7 or the Impaired Health Care Provider Act.

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

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

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1 unless the period of suspension has expired or been modified by
2 the board or the license reinstated, is guilty of a felony and
3 shall be punished as provided in Section 61-6-20 NMSA 1978.

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

7 (1) procuring, aiding or abetting [~~a criminal~~
8 ~~abortion~~] an illegal procedure;

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

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

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

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

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

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

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

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

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

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

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

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

22 (14) discipline imposed on a licensee by
23 another [state] licensing jurisdiction, including denial,
24 probation, suspension or revocation, based upon acts by the
25 licensee similar to acts described in this section. A

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

5 (15) the use of a false, fraudulent or
6 deceptive statement in a document connected with the practice
7 of a licensee;

8 (16) fee splitting;

9 (17) the prescribing, administering or
10 dispensing of narcotic, stimulant or hypnotic drugs for other
11 than accepted therapeutic purposes;

12 (18) conduct likely to deceive, defraud or
13 harm the public;

14 (19) repeated similar negligent acts or a
15 pattern of conduct otherwise described in this section or in
16 violation of a board rule;

17 (20) employing abusive billing practices;

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

20 (a) another licensing jurisdiction;

21 (b) a peer review body;

22 (c) a health care entity;

23 (d) a professional or medical society or
24 association;

25 (e) a governmental agency;

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1 (f) a law enforcement agency; or

2 (g) a court for acts or conduct similar
3 to acts or conduct that would constitute grounds for action as
4 defined in this section;

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

14 (23) failure to furnish the board, its
15 investigators or representatives with information requested by
16 the board;

17 (24) abandonment of patients;

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

20 (26) injudicious prescribing, administering or
21 dispensing of a drug or medicine;

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

25 (28) sexual contact with a patient or person

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1 who has authority to make medical decisions for a patient,
2 other than the spouse of the licensee;

3 (29) conduct unbecoming in a person licensed
4 to practice or detrimental to the best interests of the public;

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

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

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

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

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

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1 (35) undertreatment of pain as provided by
2 board rule;

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

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

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

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

13 E. As used in this section:

14 (1) "conversion therapy" means any practice or
15 treatment that seeks to change a person's sexual orientation or
16 gender identity, including any effort to change behaviors or
17 gender expressions or to eliminate or reduce sexual or romantic
18 attractions or feelings toward persons of the same sex.

19 "Conversion therapy" does not mean:

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

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

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

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

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

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

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

6 "61-6-17. EXCEPTIONS TO ACT.--The Medical Practice Act
7 shall not apply to or affect:

- 8 A. gratuitous services rendered in cases of
9 emergency;
- 10 B. the domestic administration of family remedies;
- 11 C. the practice of midwifery as regulated in this
12 state;
- 13 D. commissioned medical officers of the armed
14 forces of the United States and medical officers of the
15 commissioned corps of the United States public health service
16 or the United States department of veterans affairs in the
17 discharge of their official duties or within federally
18 controlled facilities; provided that such persons who hold
19 medical licenses in New Mexico shall be subject to the
20 provisions of the Medical Practice Act; and provided further
21 that all such persons shall be fully licensed to practice
22 medicine in one or more jurisdictions of the United States;
- 23 E. the practice of medicine by a physician,
24 unlicensed in New Mexico, who performs emergency medical
25 procedures in air or ground transportation on a patient from

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1 inside of New Mexico to another state or back; provided that
2 the physician is duly licensed in that state;

3 F. the practice, as defined and limited under their
4 respective licensing laws, of:

5 [~~(1)~~] ~~osteopathy~~;

6 ~~(2)~~] (1) dentistry;

7 [~~(3)~~] (2) podiatry;

8 [~~(4)~~] (3) nursing;

9 [~~(5)~~] (4) optometry;

10 [~~(6)~~] (5) psychology;

11 [~~(7)~~] (6) chiropractic;

12 [~~(8)~~] (7) pharmacy;

13 [~~(9)~~] (8) acupuncture and oriental medicine;

14 or

15 [~~(10)~~] (9) physical therapy;

16 [~~G. An act, task or function performed by a~~
17 ~~physician assistant, at the direction of and with the~~
18 ~~supervision of or in collaboration with, a licensed physician,~~
19 ~~when:~~

20 ~~(1) the physician assistant is currently~~
21 ~~licensed by the board;~~

22 ~~(2) the act, task or function is performed with~~
23 ~~the supervision of a licensed physician or in collaboration~~
24 ~~with a licensed physician in accordance with rules promulgated~~
25 ~~by the board; and~~

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1 ~~(3) the acts of the physician assistant are~~
2 ~~within the scope of duties assigned or delegated by the~~
3 ~~supervising or collaborating licensed physician and the acts~~
4 ~~are within the scope of the physician assistant's training;~~

5 H.] G. an act, task or function of laboratory
6 technicians or technologists, x-ray technicians, nurse
7 practitioners, medical or surgical assistants or other
8 technicians or qualified persons permitted by law or
9 established by custom as part of the duties delegated to them
10 by:

11 (1) a licensed physician or a hospital, clinic
12 or institution licensed or approved by the public health
13 division of the department of health or an agency of the
14 federal government; or

15 (2) a health care program operated or financed
16 by an agency of the state or federal government;

17 [~~F.~~] H. a properly trained medical or surgical
18 assistant or technician or professional licensee performing
19 under the physician's employment and direct supervision or a
20 visiting physician or surgeon operating under the physician's
21 direct supervision a medical act that a reasonable and prudent
22 physician would find within the scope of sound medical judgment
23 to delegate if, in the opinion of the delegating physician, the
24 act can be properly and safely performed in its customary
25 manner and if the person does not hold the person's own self

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1 out to the public as being authorized to practice medicine in
2 New Mexico. The delegating physician shall remain responsible
3 for the medical acts of the person performing the delegated
4 medical acts;

5 ~~[J.]~~ I. the practice of the religious tenets of a
6 church in the ministrations to the sick or suffering by mental
7 or spiritual means as provided by law; provided that the
8 Medical Practice Act shall not be construed to exempt a person
9 from the operation or enforcement of the sanitary and
10 quarantine laws of the state;

11 ~~[K.]~~ J. the acts of a physician licensed under the
12 laws of another state of the United States who is the treating
13 physician of a patient and orders home health or hospice
14 services for a resident of New Mexico to be delivered by a home
15 and community support services agency licensed in this state;
16 provided that a change in the condition of the patient shall be
17 physically reevaluated by the treating physician in the
18 treating physician's jurisdiction or by a licensed New Mexico
19 physician;

20 ~~[L.]~~ K. a physician licensed to practice under the
21 laws of another state who acts as a consultant to a New Mexico-
22 licensed physician on an irregular or infrequent basis, as
23 defined by rule of the board; and

24 ~~[M.]~~ L. a physician who engages in the informal
25 practice of medicine across state lines without compensation or

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1 expectation of compensation; provided that the practice of
2 medicine across state lines conducted within the parameters of
3 a contractual relationship shall not be considered informal and
4 is subject to licensure and rule by the board."

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

7 "61-6-17.1. TEMPORARY LICENSURE EXEMPTION--OUT-OF-STATE
8 PHYSICIANS--OUT-OF-STATE SPORTS TEAMS.--

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

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

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

25 (3) the services to be provided by the

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

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

5 (5) the individual shall not:

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

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

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

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

19 (a) medical license violation;

20 (b) practice negligence; or

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

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

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1 provisions of the Medical Practice Act; and

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

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

9 C. As used in this section:

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

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

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

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

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

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

24 "61-6-18. MEDICAL STUDENTS--INTERNS--RESIDENTS--FELLOWS.-

25 A. Nothing in the Medical Practice Act shall

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1 prevent a medical student properly registered or enrolled in a
2 medical college or school in good standing from diagnosing or
3 treating the sick or afflicted, provided that the medical
4 student does not receive compensation for services and such
5 services are rendered under the supervision of the school
6 faculty as part of the student's course of study.

7 B. Any intern [~~or~~], resident or fellow who is
8 appointed in a board-approved residency or fellowship training
9 program may pursue such training after obtaining a postgraduate
10 training license from the board. The board may adopt by rule
11 specific education or examination requirements for a
12 postgraduate training license.

13 C. Any person serving in the assigned rotations and
14 performing the assigned duties in a board-approved residency or
15 fellowship training program accredited in New Mexico may do so
16 for an aggregate period not to exceed eight years or completion
17 of the residency, whichever is shorter.

18 D. The board may require any applicant for a
19 postgraduate training license required in Subsections B and C
20 of this section to personally appear before the board or a
21 designated member of the board for an interview.

22 E. Every applicant for a postgraduate training
23 license under this section shall pay the fees required by
24 Section 61-6-19 NMSA 1978.

25 F. Postgraduate training licenses shall be renewed

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

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

5 "61-6-18.1. PUBLIC SERVICE LICENSE.--

6 A. Applicants for a public service license shall
7 meet all requirements for licensure and shall:

8 (1) be enrolled in a board-approved residency
9 or fellowship training program either in New Mexico or in
10 another jurisdiction;

11 (2) obtain written approval from the training
12 program director of the applicant to pursue a public service
13 practice opportunity outside the residency training program;
14 and

15 (3) satisfy other reasonable requirements
16 imposed by the board.

17 B. A physician with one year of postdoctoral
18 training may apply for a public service license to practice
19 under the direct supervision of a licensed physician or with
20 immediate access to a licensed physician by electronic means
21 when the public service physician is employed in a medically
22 underserved area.

23 C. A public service license shall expire on
24 September 1 of each year and may be renewed by the board.

25 D. An applicant for a public service license shall

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

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

4 "61-6-19. FEES.--

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

7 (1) an application fee not to exceed [~~four~~
8 ~~hundred dollars (\$400)] five hundred dollars (\$500) for
9 licensure by endorsement as provided in Section 61-6-13 NMSA
10 1978;~~

11 (2) an application fee not to exceed [~~four~~
12 ~~hundred dollars (\$400)] five hundred dollars (\$500) for
13 licensure by examination as provided in Section 61-6-11 NMSA
14 1978;~~

15 (3) a triennial renewal fee not to exceed
16 [~~four hundred fifty dollars (\$450)] five hundred dollars
17 (\$500);~~

18 (4) a fee of twenty-five dollars (\$25.00) for
19 placing a physician's license or a physician assistant's
20 license on inactive status;

21 (5) a late fee not to exceed one hundred
22 dollars (\$100) for physicians who renew their license within
23 forty-five days after the required renewal date;

24 (6) a late fee not to exceed two hundred
25 dollars (\$200) for physicians who renew their licenses between

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

2 (7) a reinstatement fee not to exceed [~~six~~
3 ~~hundred dollars (\$600)] seven hundred dollars (\$700) for
4 reinstatement of a revoked, suspended or inactive license;~~

5 (8) a reasonable administrative fee for
6 verification and duplication of license or registration and
7 copying of records;

8 (9) a reasonable publication fee for the
9 purchase of a publication containing the names of all
10 practitioners licensed under the Medical Practice Act;

11 (10) an impaired physician fee not to exceed
12 one hundred fifty dollars (\$150) for a three-year period;

13 (11) an interim license fee not to exceed one
14 hundred dollars (\$100);

15 (12) a temporary license fee not to exceed one
16 hundred dollars (\$100);

17 (13) a postgraduate training license fee not
18 to exceed fifty dollars (\$50.00) annually;

19 (14) an application fee not to exceed one
20 hundred fifty dollars (\$150) for physician assistants applying
21 for initial licensure;

22 (15) a licensure fee not to exceed one hundred
23 fifty dollars (\$150) for physician assistants biennial license
24 renewal and registration of supervising or collaborating
25 licensed physician;

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1 (16) a late fee not to exceed fifty dollars
2 (\$50.00) for physician assistants who renew their licensure
3 within forty-five days after the required renewal date;

4 (17) a late fee not to exceed seventy-five
5 dollars (\$75.00) for physician assistants who renew their
6 licensure between forty-six and ninety days after the required
7 renewal date;

8 (18) a reinstatement fee not to exceed one
9 hundred dollars (\$100) for physician assistants who reinstate
10 an expired license;

11 (19) a fee not to exceed three hundred dollars
12 (\$300) annually for a physician supervising a clinical
13 pharmacist;

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

17 (21) a reasonable administrative fee, not to
18 exceed the current cost of application and license or renewal
19 for a license, that may be charged for reprocessing
20 applications and renewals that include minor but significant
21 errors and that would otherwise be subject to investigation and
22 possible disciplinary action; and

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

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

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

5 "61-6-21. CONTINUING MEDICAL EDUCATION--PENALTY.--

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

13 B. The board may suspend the license of a licensee
14 who fails to comply with continuing medical education or
15 continuing education requirements until the requirements are
16 fulfilled and may take any further disciplinary action if the
17 licensee fails to remediate the deficiencies, including
18 revocation of license."

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

21 "61-6-23. INVESTIGATION--SUBPOENA.--To investigate a
22 complaint against an applicant or a licensee, the board may
23 issue investigative subpoenas prior to the issuance of a notice
24 of contemplated action."

25 SECTION 40. Section 61-6-28 NMSA 1978 (being Laws 1945,
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1 Chapter 74, Section 3, as amended) is amended to read:

2 "61-6-28. LICENSED PHYSICIANS--CHANGING LOCATION.--A
3 licensed physician or practitioner under licensure authority of
4 the board or who applies for a license issued by the board who
5 changes the location of [his] the physician's or practitioner's
6 office or residence shall promptly notify the board of the
7 change. Applicants and licensees shall maintain a current
8 address, phone number and email address with the board."

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

11 "61-6-30. RESTORATION OF GOOD STANDING--FEES AND OTHER
12 REQUIREMENTS.--

13 A. Before restoring to good standing a license that
14 has been in a revoked, suspended or inactive status for any
15 cause for more than two years, the board may require the
16 applicant to pass an oral or written examination, or both, to
17 determine the current fitness and competence of the applicant
18 to resume practice and may impose terms, conditions or
19 restrictions in its discretion.

20 B. The authority of the board to impose terms,
21 [~~and~~] conditions or restrictions includes, but is not limited
22 to, the following:

23 (1) requiring the applicant to obtain
24 additional training and to pass an examination upon completion
25 of such training; or

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1 (2) restricting or limiting the extent, scope
2 or type of practice of the applicant.

3 C. The board shall also consider the moral
4 background and the activities of the applicant during the
5 period of suspension or inactivity.

6 D. If the board in its discretion determines that
7 the applicant is qualified to be reissued a license in good
8 standing, the applicant shall pay to the board a reinstatement
9 fee."

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

12 "61-6-31. DISPOSITION OF FUNDS--NEW MEXICO MEDICAL BOARD
13 FUND CREATED--METHOD OF PAYMENTS.--

14 A. There is created the "New Mexico medical board
15 fund".

16 B. All funds received by the board and money
17 collected under the Medical Practice Act, the Physician
18 Assistant Act, the Anesthesiologist Assistants Act, the Genetic
19 Counseling Act, the Polysomnography Practice Act, the Impaired
20 Health Care Provider Act, the Naturopathic Doctors' Practice
21 Act and the Naprapathic Practice Act shall be deposited with
22 the state treasurer, who shall place the same to the credit of
23 the New Mexico medical board fund.

24 C. All payments out of the fund shall be made on
25 vouchers issued and signed by the secretary-treasurer of the

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1 board or the designee of the secretary-treasurer upon warrants
2 drawn by the department of finance and administration in
3 accordance with the budget approved by that department.

4 D. All amounts in the New Mexico medical board fund
5 shall be subject to the order of the board and shall be used
6 only for the purpose of meeting necessary expenses incurred in:

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

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

16 (3) efforts to recruit and retain medical
17 ~~[doctors]~~ and osteopathic physicians for practice in New
18 Mexico.

19 E. All funds that may have accumulated to the
20 credit of the board under any previous law shall be transferred
21 to the New Mexico medical board fund and shall continue to be
22 available for use by the board in accordance with the
23 provisions of the Medical Practice Act, the Physician Assistant
24 Act, the Anesthesiologist Assistants Act, the Genetic
25 Counseling Act, the Polysomnography Practice Act, the Impaired

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1 Health Care Provider Act, the Naturopathic Doctors' Practice
2 Act and the Naprapathic Practice Act. All money unused at the
3 end of the fiscal year shall not revert, but shall remain in
4 the fund for use in accordance with 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 Impaired Health Care
8 Provider Act, the Naturopathic Doctors' Practice Act and the
9 Naprapathic Practice Act."

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

12 "61-6-32. TERMINATION OF SUSPENSION OF LICENSE FOR MENTAL
13 ILLNESS--RESTORATION--TERMS AND CONDITIONS.--

14 A. A suspension under Paragraph (25) of Subsection
15 D of Section 61-6-15 NMSA 1978 may, in the discretion of the
16 board, be terminated, but the suspension shall continue and the
17 board shall not restore to the former practitioner the
18 privilege to practice medicine [~~and surgery~~] in this state
19 until:

20 (1) the board receives competent evidence that
21 the former practitioner is not mentally ill; and

22 (2) the board is satisfied, in the exercise of
23 its discretion and with due regard for the public interest,
24 that the practitioner's former privilege to practice medicine
25 [~~and surgery~~] may be safely restored.

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1 B. If the board, in the exercise of its discretion,
2 determines that the practitioner's former privilege to practice
3 medicine may be safely restored, it may restore [~~such~~] the
4 privilege upon whatever terms and conditions it deems
5 advisable. If the practitioner fails, refuses or neglects to
6 abide by the terms and conditions, [~~his~~] the practitioner's
7 license to practice medicine may, in the discretion of the
8 board, be again suspended indefinitely."

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

11 "61-6A-5. EXEMPTIONS.--

12 A. Nothing in the Genetic Counseling Act is
13 intended to limit, interfere with or prevent a licensed health
14 care professional from practicing within the scope of the
15 professional license of that health care professional; however,
16 a licensed health care professional shall not advertise to the
17 public or any private group or business by using any title or
18 description of services that includes the term "genetic
19 counseling" unless the health care professional is licensed
20 under the Genetic Counseling Act.

21 B. The Genetic Counseling Act shall not apply to or
22 affect:

23 (1) a medical physician or an osteopathic
24 physician licensed under the Medical Practice Act; or

25 (2) a commissioned physician or surgeon

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1 serving in the armed forces of the United States or a federal
2 agency [~~or~~

3 ~~(3) an osteopathic physician licensed by the~~
4 ~~board of osteopathic medical examiners]."~~

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

7 "61-11B-3. PHARMACIST CLINICIAN PRESCRIPTIVE AUTHORITY.--

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

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

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

25 (2) a statement of the types of prescriptive

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

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

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

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

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

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

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

25 E. The board shall adopt regulations to carry out

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1 the provisions of the Pharmacist Prescriptive Authority Act.

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

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

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

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

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

21 SECTION 47. REPEAL.--Sections 61-10-1.1 through 61-10-22
22 NMSA 1978 (being Laws 2016, Chapter 90, Sections 1 and 2, Laws
23 1974, Chapter 78, Section 16, Laws 1933, Chapter 117, Sections
24 2 and 3, Laws 2016, Chapter 90, Sections 5, 21 and 6 through 8,
25 Laws 2019, Chapter 184, Section 2, Laws 1933, Chapter 117,

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1 Sections 6, 8 and 9, Laws 2016, Chapter 90, Sections 19 and 22
2 through 25, Laws 2019, Chapter 19, Section 9, Laws 1933,
3 Chapter 117, Sections 10 and 12, Laws 2016, Chapter 90,
4 Sections 12 and 20, Laws 1933, Chapter 117, Section 14, Laws
5 2016, Chapter 90, Section 18, Laws 1933, Chapter 117, Sections
6 15 and 16, Laws 1971, Chapter 140, Sections 1 and 2, Laws 1945,
7 Chapter 79, Section 7 and Laws 1979, Chapter 36, Section 2, as
8 amended) are repealed effective July 1, 2022.

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