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AN ACT

RELATING TO THE PRACTICE OF MEDICINE; AMENDING CERTAIN
SECTIONS OF THE MEDICAL PRACTICE ACT; DECLARING AN EMERGENCY.

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

Section 1. Section 61-6-11 NMSA 1978 (being Laws 1923,
Chapter 44, Section 3, as amended) is amended to read:

"61-6-11. LICENSURE.--

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

B. An applicant who has not completed two years of
an approved postgraduate training program, but who otherwise
meets all other licensing requirements, may present evidence
to the board of the applicant's other professional experience
for consideration by the board in lieu of the approved
postgraduate training program. The board shall, in its sole
discretion, determine if the professional experience is
substantially equivalent to the required approved
postgraduate training program.

C. A graduate of a board-approved medical school
located outside the United States or Canada may be granted a
license to practice medicine in New Mexico, provided the

1 applicant presents evidence to the board that the applicant
2 is a person of good moral character and is in compliance with
3 the United States immigration laws and provided that the
4 applicant presents satisfactory evidence to the board that
5 the applicant has successfully passed an examination as
6 required by the board and has successfully completed two
7 years of postgraduate medical training in an approved
8 postgraduate training program. A graduate of a medical
9 school located outside the United States who successfully
10 completes at least two years of an approved postgraduate
11 training program at or affiliated with an institution located
12 in New Mexico prior to December 30, 2007 and who meets the
13 other requirements of this section may also be granted a
14 license to practice medicine.

15 D. All applicants for licensure may be required to
16 appear personally before the board or a designated agent for
17 an interview.

18 E. An applicant for licensure by examination shall
19 not be granted a license if the applicant has taken the
20 examination in two or more steps and has failed to
21 successfully pass the final step within seven years of the
22 date that the first step was passed. An applicant for
23 licensure who holds a medical doctor degree and a doctoral
24 degree in a medically related field must successfully
25 complete the entire examination series within ten years from

1 the date the first step of the examination is passed.

2 Provided, that the board may, by rule, establish exceptions
3 to the time requirements of this subsection.

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

7 G. The board may require fingerprints and other
8 information necessary for a state and national criminal
9 background check."

10 Section 2. Section 61-6-13 NMSA 1978 (being Laws 1989,
11 Chapter 269, Section 9, as amended) is amended to read:

12 "61-6-13. LICENSURE BY ENDORSEMENT.--

13 A. The board may grant a license by endorsement to
14 an applicant who:

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

17 (2) is board certified in a specialty
18 recognized by the American board of medical specialties;

19 (3) has been a licensed physician in
20 the United States or Canada and has practiced medicine in the
21 United States or Canada immediately preceding the application
22 for at least three years;

23 (4) holds an unrestricted license in another
24 state or Canada; and

25 (5) was not the subject of a disciplinary

1 action in a state or province.

2 B. The board may grant a license by endorsement to
3 an applicant who:

4 (1) has graduated from a medical school
5 located outside the United States or Canada;

6 (2) is of good moral character;

7 (3) is in compliance with the United States
8 immigration laws;

9 (4) is board certified in a specialty
10 recognized by the American board of medical specialties;

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

15 (6) holds an unrestricted license in another
16 state or Canada; and

17 (7) was not the subject of disciplinary
18 action in a state or province.

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

1 integrity and protection data bank and has unusual skills and
2 experience not generally available in this state, and
3 patients residing in this state have a significant need for
4 such skills and experience, the board may waive a requirement
5 imposing time limits for examination completion that are
6 different from requirements of the state where the applicant
7 is licensed.

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

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

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

17 Section 3. Section 61-6-14 NMSA 1978 (being Laws 1953,
18 Chapter 48, Section 2, as amended) is amended to read:

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

22 A. The secretary-treasurer of the board or the
23 board's designee may, either by examination or endorsement,
24 approve a temporary license to practice medicine and surgery
25 to an applicant qualified to practice medicine and surgery in

1 this state who will be temporarily in attendance at an
2 organized youth camp or school, provided that:

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

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

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

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

19 (1) the temporary license may be issued upon
20 written application of the applicant, accompanied by proof of
21 qualifications as specified by rule of the board. A
22 temporary license may be granted to allow the applicant to
23 assist in teaching, conducting research, performing
24 specialized diagnostic and treatment procedures, implementing
25 new technology and for physician educational purposes. A

1 licensee may engage in only the activities specified on the
2 temporary license, and the temporary license shall identify
3 the licensed physician who will supervise the applicant
4 during the time the applicant practices medicine in New
5 Mexico. The supervising licensed physician shall submit an
6 affidavit attesting to the qualifications of the applicant
7 and activities the applicant will perform; and

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

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

15 Section 4. Section 61-6-15 NMSA 1978 (being Laws 1969,
16 Chapter 46, Section 6, as amended) is amended to read:

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

22 A. The board may refuse to license and may revoke
23 or suspend a license that has been issued by the board or a
24 previous board and may fine, censure or reprimand a licensee
25 upon satisfactory proof being made to the board that the

1 applicant for or holder of the license has been guilty of
2 unprofessional or dishonorable conduct. The board may also
3 refuse to license an applicant who is unable to practice
4 medicine, or practice as a physician assistant or an
5 anesthesiologist assistant, pursuant to Section 61-7-3 NMSA
6 1978. All proceedings shall be as required by the Uniform
7 Licensing Act 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.
12 Upon expiration of the term of probation, if a term is set,
13 further proceedings may be abated by the board if the holder
14 of the license furnishes the board with evidence that the
15 licensee is competent to practice, is of good moral character
16 and has 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
19 is of good moral character or if evidence shows that the
20 licensee has not complied with the terms of probation, the
21 board may revoke or suspend the license. If a license to
22 practice in this state is suspended, the holder of the
23 license may not practice during the term of suspension. A
24 person whose license has been revoked or suspended by the
25 board and who thereafter practices or attempts or offers to

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

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

9 (1) procuring, aiding or abetting a criminal
10 abortion;

11 (2) employing a person to solicit patients
12 for the licensee;

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

16 (4) obtaining a fee by fraud or
17 misrepresentation;

18 (5) willfully or negligently divulging a
19 professional confidence;

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

1 (7) habitual or excessive use of intoxicants
2 or drugs;

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

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

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

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

20 (12) gross negligence in the practice of a
21 licensee;

22 (13) manifest incapacity or incompetence to
23 practice as a licensee;

24 (14) discipline imposed on a licensee by
25 another state, including denial, probation, suspension or

1 revocation, based upon acts by the licensee similar to acts
2 described in this section. A certified copy of the record of
3 suspension or revocation of the state making the suspension
4 or revocation is conclusive evidence;

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;

15 (20) employing abusive billing practices;

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

18 (a) another licensing jurisdiction;

19 (b) a peer review body;

20 (c) a health care entity;

21 (d) a professional or medical society

22 or association;

23 (e) a governmental agency;

24 (f) a law enforcement agency; or

25 (g) a court for acts or conduct similar

1 to acts or conduct that would constitute grounds for action
2 as defined in this section;

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

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

15 (24) abandonment of patients;

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

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

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

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

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

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

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

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

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

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

25 (35) undertreatment of pain as provided by

1 board rule;

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

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

9 (38) willfully or negligently divulging
10 privileged information or a professional secret.

11 E. As used in this section, "fee splitting"
12 includes offering, delivering, receiving or accepting any
13 unearned rebate, refunds, commission preference, patronage
14 dividend, discount or other unearned consideration, whether
15 in the form of money or otherwise, as compensation or
16 inducement for referring patients, clients or customers to a
17 person, irrespective of any membership, proprietary interest
18 or co-ownership in or with a person to whom the patients,
19 clients or customers are referred.

20 F. Licensees whose licenses are in a probationary
21 status shall pay reasonable expenses for maintaining
22 probationary status, including laboratory costs when
23 laboratory testing of biological fluids are included as a
24 condition of probation."

25 Section 5. Section 61-6-18 NMSA 1978 (being Laws 1989,

1 Chapter 269, Section 14, as amended) is amended to read:

2 "61-6-18. MEDICAL STUDENTS--INTERNS--RESIDENTS.--

3 A. Nothing in the Medical Practice Act shall
4 prevent a medical student properly registered or enrolled in
5 a medical college or school in good standing from diagnosing
6 or treating the sick or afflicted, provided that the medical
7 student does not receive compensation for services and such
8 services are rendered under the supervision of the school
9 faculty as part of the student's course of study.

10 B. Any intern or resident who is appointed in a
11 board-approved residency training program may pursue such
12 training after obtaining a postgraduate training license from
13 the board. The board may adopt by rule specific education or
14 examination requirements for a postgraduate training license.

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

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

24 E. Every applicant for a postgraduate training
25 license under this section shall pay the fees required by

1 Section 61-6-19 NMSA 1978.

2 F. Postgraduate training licenses shall be renewed
3 annually and shall be effective during each year or part of a
4 year of postgraduate training."

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

7 "61-6-18.1. PUBLIC SERVICE LICENSE.--

8 A. Applicants for a public service license shall
9 meet all requirements for licensure and shall:

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

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

17 (3) satisfy other reasonable requirements
18 imposed by the board.

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

25 C. A public service license shall expire on

1 September 1 of each year and may be renewed by the board.

2 D. An applicant for a public service license shall
3 pay the required fees set forth in Section 61-6-19 NMSA
4 1978."

5 Section 7. EMERGENCY.--It is necessary for the public
6 peace, health and safety that this act take effect
7 immediately.

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