

AN ACT

RELATING TO HEALTH CARE; ASSIGNING THE DUTIES OF THE NAPRAPATHIC PRACTICE BOARD TO THE NEW MEXICO MEDICAL BOARD; ENACTING THE NAPRAPATHIC PRACTICE ACT; CREATING THE NAPRAPATHIC TASK FORCE; PROVIDING FOR THE TRANSFER OF FUNCTIONS, APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS AND REFERENCES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2008.

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

SECTION 1. Section 61-6-5 NMSA 1978 (being Laws 1973, Chapter 361, Section 2, as amended by Laws 2008, Chapter 53, Section 11 and by Laws 2008, Chapter 54, Section 11 and also by Laws 2008, Chapter 55, Section 1) is amended to read:

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

A. enforce and administer the provisions of the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act, the Genetic Counseling Act, the Impaired Health Care Provider Act, the Polysomnography Practice Act and the Naprapathic Practice Act;

B. adopt, publish and file, in accordance with the Uniform Licensing Act and the State Rules Act, all rules for the implementation and enforcement of the provisions of the Medical Practice Act, the Physician Assistant Act, the

Anesthesiologist Assistants Act, the Genetic Counseling Act, the Impaired Health Care Provider Act, the Polysomnography Practice Act and the Naprapathic Practice Act;

C. adopt and use a seal;

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

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

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

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

H. grant, deny, review, suspend and revoke licenses to practice medicine and censure, reprimand, fine and place on probation and stipulation licensees and applicants in accordance with the Uniform Licensing Act for any cause stated in the Medical Practice Act, the Impaired Health Care Provider Act and the Naprapathic Practice Act;

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

J. have the authority to hire or contract with investigators to investigate possible violations of the

Medical Practice Act;

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

L. establish continuing medical education requirements for licensed physicians and continuing education requirements for physician assistants;

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

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

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

P. have the authority to waive licensure fees for the purpose of medical doctor recruitment and retention."

SECTION 2. Section 61-6-6 NMSA 1978 (being Laws 1973, Chapter 361, Section 1, as amended) is amended to read:

"61-6-6. DEFINITIONS.--As used in Chapter 61, Article 6 NMSA 1978:

A. "approved postgraduate training program" means a program approved by the accrediting council on graduate medical education of the American medical association or by the board;

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

C. "licensed physician" means a medical doctor licensed under the Medical Practice Act to practice medicine in New Mexico;

D. "licensee" means a medical doctor, physician assistant, polysomnographic technologist, anesthesiologist assistant or naprapath licensed by the board to practice in New Mexico;

E. "medical college or school in good standing" means a board-approved medical college or school that has as high a standard as that required by the association of American medical colleges and the council on medical education of the American medical association;

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

G. "physician assistant" means a health professional who is licensed by the board to practice as a physician assistant and who provides services to patients under the supervision and direction of a licensed physician;

H. "intern" means a first-year postgraduate student upon whom a degree of doctor of medicine and surgery

or equivalent degree has been conferred by a medical college or school in good standing;

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

J. "the practice of medicine" consists of:

(1) advertising, holding out to the public or representing in any manner that one is authorized to practice medicine in this state;

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

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

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

(5) offering or undertaking to diagnose, correct or treat in any manner or by any means, methods,

devices or instrumentalities any disease, illness, pain, wound, fracture, infirmity, deformity, defect or abnormal physical or mental condition of a person;

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

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

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

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

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

L. "sexual contact" means touching the primary genital area, groin, anus, buttocks or breast of a patient or

allowing a patient to touch another's primary genital area, groin, anus, buttocks or breast in a manner that is commonly recognized as outside the scope of acceptable medical practice;

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

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

SECTION 3. Section 61-6-31 NMSA 1978 (being Laws 1989, Chapter 269, Section 27, as amended by Laws 2008, Chapter 53, Section 13 and by Laws 2008, Chapter 54, Section 14 and also by Laws 2008, Chapter 55, Section 2) is amended to read:

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

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

B. All funds received by the board and money collected under the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act, the Genetic Counseling Act, the Polysomnography Practice Act, the Impaired Health Care Provider Act and the Naprapathic Practice

Act shall be deposited with the state treasurer who shall place the same to the credit of the New Mexico medical board fund.

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

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

(1) the performance of the provisions of the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act, the Genetic Counseling Act, the Polysomnography Practice Act, the Impaired Health Care Provider Act and the Naprapathic Practice Act and the duties and powers imposed by those acts;

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

(3) efforts to recruit and retain medical doctors for practice in New Mexico.

E. All funds that may have accumulated to the credit of the board under any previous law shall be transferred to the New Mexico medical board fund and shall

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

SECTION 4. SHORT TITLE.--Sections 4 through 14 of this act may be cited as the "Naprapathic Practice Act".

SECTION 5. DEFINITIONS.--As used in the Naprapathic Practice Act:

- A. "board" means the New Mexico medical board; and
- B. "licensee" means a person licensed by the board to practice naprapathy.

SECTION 6. NAPRAPATHIC TASK FORCE CREATED.--

A. The "naprapathic task force" is created under the direction of the board. The naprapathic task force shall advise the board regarding licensure of naprapaths, approval of naprapathy curricula and any other matters that are necessary to ensure the training and licensure of naprapaths.

B. The naprapathic task force shall be composed of no fewer than two licensees, appointed by the board, who are residents of the state. Vacancies on the naprapathic task force shall be filled by appointment by the board.

C. The naprapathic task force shall develop guidelines for the board to consider in regard to:

(1) regulating the licensure of naprapaths and the practice of naprapathy and establishing minimum qualifications and hours of clinical experience required for licensure as a naprapath;

(2) prescribing the manner in which records of examinations and treatments shall be kept and maintained;

(3) providing standards for professional responsibility and conduct;

(4) identifying disciplinary actions and circumstances that require disciplinary action;

(5) developing a means to provide information to all licensees in the state;

(6) providing for the investigation of complaints against licensees or persons holding themselves out as practicing naprapathy in the state;

(7) providing for the publishing of information for the public about licensees and the practice of naprapathy in the state;

(8) providing for an orderly process for

reinstatement of a license;

(9) establishing criteria for acceptance of naprapathy credentials or licensure from another jurisdiction;

(10) providing criteria for advertising or promotional materials; and

(11) any other matter necessary to implement the Naprapathic Practice Act.

SECTION 7. PRACTICE OF NAPRAPATHY--DESCRIPTION.--

A. Naprapathic practice includes the diagnosis and treatment of persons with connective tissue disorders through the use of special techniques, review of case history, examination and palpation or treatment of a person by the use of connective tissue manipulation, exercise, postural counseling, nutritional counseling and the application or use of heat, cold, light, water, radiant energy, electricity, sound and air and assistive devices for the purpose of preventing, correcting or alleviating a physical disability. Naprapathic practice does not include surgery, acupuncture, Chinese herbal medicine, pharmacology or invasive diagnostic testing.

B. A naprapath treats contractures, muscle spasms, inflammations, scar tissue formation, adhesions, lesions, laxity, hypotonicity, rigidity, structural imbalances, bruises, contusions, muscular atrophy and partial separation of connective tissue fibers.

C. Naprapathic practice may require the:

- (1) performance of specialized tests and measurements;
- (2) administration of specialized treatment procedures; and
- (3) establishment and modification of naprapathic treatment programs.

D. A naprapath may advise, supervise or teach another in the performance of naprapathy.

E. A naprapath shall refer to a licensed physician any patient whose medical condition should, at the time of evaluation or treatment, be determined to be beyond the scope of practice of the naprapath.

**SECTION 8. LICENSE REQUIRED--EXCEPTIONS--
REGISTRATION.--**

A. A person shall not practice naprapathy in the state without a valid license issued by the board.

B. A person who is a naprapath practitioner employed by a federal government facility or agency in New Mexico is not required to be licensed pursuant to the Naprapathic Practice Act.

C. A person who is enrolled in a program approved by the board to provide training for naprapaths or a person receiving continuing educational training to practice naprapathy is not required to be licensed or registered with

the board.

D. A person teaching, advising or supervising students of naprapathy or teaching continuing education for naprapaths shall not practice naprapathy in New Mexico without a license by the board unless:

(1) that person is in the state for less than one month;

(2) that person is registered with the board as a teacher, advisor or supervisor; and

(3) the practice occurs in the course of that person's duties as a teacher, advisor or supervisor.

E. Nothing in the Naprapathic Practice Act shall be construed to prevent a person qualified as a member of a recognized profession, the practice of which requires a license or is regulated pursuant to the laws of New Mexico, from rendering services within the scope of the person's license or a state rule adopted to regulate the profession; provided that the person does not make a representation as being a naprapath.

SECTION 9. REQUIREMENTS FOR LICENSING.--

A. The board shall grant a license to practice naprapathy to a person who:

(1) is at least twenty-one years of age;

(2) has submitted to the board:

(a) a completed application for

licensing on a form provided by the board;

(b) required documentation as required by the board; and

(c) the required fees;

(3) has graduated from a two-year college-level program or an equivalent program approved by the board;

(4) has completed, in not less than three years, a four-year academic curriculum in naprapathy that is approved by the board, and the person has successfully completed one hundred thirty-two hours of academic credit, including sixty-six credit hours in basic science courses with emphasis on the study of connective tissue, and sixty-six credit hours in clinical naprapathic science, theory and application;

(5) has passed the national board of naprapathic examiners examination or holds a valid license as a naprapath in another jurisdiction; and

(6) has met all other requirements of the board.

B. The board may require a personal interview with an applicant to evaluate that person's qualifications for a license.

SECTION 10. DESIGNATION AS NAPRAPATH--DISPLAY OF LICENSE.--

A. A licensee is designated a "naprapath" and may

use that title in connection with the practice of the profession of naprapathy.

B. A licensee may use the title "doctor of naprapathy" or the letters "D.N." following the licensee's name to indicate the licensee's professional status.

C. A licensee shall display the licensee's license and diplomas in the licensee's place of business in a location clearly visible to the licensee's patients.

SECTION 11. LICENSE RENEWAL.--

A. The board shall review licenses for renewal annually, and all licenses to be renewed shall be renewed on July 1. Applicants for license renewal shall submit:

(1) a renewal application on a form provided by the board; and

(2) a license renewal fee.

B. The board may require proof of continuing education or other proof of competence as a requirement for renewal.

SECTION 12. LICENSE FEES.--The board shall establish a schedule of reasonable administrative and licensing fees, but an individual fee shall not exceed one thousand dollars (\$1,000).

SECTION 13. OFFENSES--CRIMINAL PENALTIES.--A person who practices naprapathy without a license is guilty of a misdemeanor and shall be sentenced in accordance with the

provisions of Section 31-19-1 NMSA 1978.

SECTION 14. VIOLATION--CIVIL PENALTIES.--The board may fine any person who intentionally violates the provisions of the Naprapathic Practice Act up to one thousand dollars (\$1,000) or may suspend or revoke the licensee's authority to practice naprapathy in New Mexico.

SECTION 15. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS, APPROPRIATIONS AND PROPERTY--CONTRACTUAL OBLIGATIONS-- STATUTORY REFERENCES.--

A. On July 1, 2011, all functions, appropriations, money, records, furniture, equipment and other property of the naprapathic practice board shall be transferred to the New Mexico medical board.

B. On the effective date of this act, contractual obligations of the naprapathic practice board are binding on the New Mexico medical board.

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

SECTION 16. REPEAL.--Sections 61-12E-1 through 61-12E-17 NMSA 1978 (being Laws 2003, Chapter 60, Sections 1 through 17, as amended) are repealed.

SECTION 17. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2011. _____