

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR

SENATE BILL 159

**50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

AN ACT

RELATING TO HEALTH CARE; MANDATING PROCEDURES RELATING TO THE  
PRESCRIBING AND DISPENSING OF CERTAIN PRESCRIPTIONS FOR OPIOID  
MEDICATIONS; CREATING AN OPIOID MEDICATION PRESCRIBING LIMITS  
COUNCIL; AMENDING SECTIONS OF CHAPTER 61 NMSA 1978 TO REQUIRE  
ADOPTION OF RULES RELATED TO OPIOID MEDICATION PRESCRIBING AND  
REFILL LIMITS; RECONCILING MULTIPLE AMENDMENTS TO THE SAME  
SECTION OF LAWS IN LAWS 2003.

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

SECTION 1. A new section of the New Mexico Drug, Device  
and Cosmetic Act is enacted to read:

"[NEW MATERIAL] OPIOID MEDICATION--DOCUMENTED, INFORMED  
CONSENT REQUIRED--PATIENT EDUCATION--PRESCRIBING AND DISPENSING  
PROCEDURES.--

A. Before issuing a prescription for any opioid

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1 medication for the first time to a patient, a practitioner  
2 shall obtain documented, informed consent from:

3 (1) the patient for whom the practitioner  
4 wishes to prescribe the opioid medication, if the patient is an  
5 adult;

6 (2) the patient's parent, guardian or legal  
7 representative, if the patient is a minor;

8 (3) the patient's guardian or legal  
9 representative, if the patient is an adult who has been judged  
10 to be incompetent to provide informed consent; or

11 (4) the patient's surrogate appointed pursuant  
12 to Section 24-7A-5 NMSA 1978.

13 B. In the process of obtaining documented, informed  
14 consent pursuant to Subsection A of this section, a  
15 practitioner shall discuss with the patient or the patient's  
16 parent, legal guardian or legal representative the risks and  
17 benefits of using opioid medication and shall ensure that the  
18 patient or the patient's parent, legal guardian or legal  
19 representative is provided with written materials containing  
20 current, factual information on the risks associated with using  
21 opioids and on the safe use of opioids.

22 C. A practitioner is not required to obtain  
23 documented, informed consent from a patient if the practitioner  
24 writes a prescription for an opioid medication that the  
25 practitioner has previously prescribed to that patient.

1 D. Notwithstanding any other provision of law,  
2 consent and counseling are not required pursuant to Subsections  
3 A through C of this section when health care decisions are made  
4 pursuant to the provisions of Sections 24-10-1 through 24-10-4  
5 NMSA 1978.

6 E. When a patient who is a minor seeks to fill or  
7 refill a prescription for an opioid medication by presenting  
8 the prescription to a dispenser, or when that patient seeks to  
9 obtain a filled opioid medication prescription from a  
10 dispenser, the minor patient shall be accompanied by the  
11 patient's parent, guardian or legal representative.

12 F. A practitioner shall retain a copy of the  
13 documented, informed consent obtained pursuant to Subsection A  
14 of this section for a period of time that the board shall  
15 designate by rule.

16 G. A practitioner who treats a non-cancer patient  
17 with a Schedule II or Schedule III opioid medication for a  
18 period greater than thirty days shall review a board  
19 prescription drug monitoring report for that patient as defined  
20 by the licensing board with authority over the practitioner.  
21 The practitioner's licensing board operating pursuant to  
22 Chapter 61 NMSA 1978 shall enforce the provisions of this  
23 subsection.

24 H. The provisions of this section shall not apply  
25 to any procedure or treatment for a minor that does not require

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1 parental consent.

2 I. Violations of the provisions of this section  
3 shall be referred to the violating practitioner's licensing  
4 board and shall not be subject to the penalties provided  
5 pursuant to Section 26-1-26 NMSA 1978.

6 J. The provisions of this section shall not apply  
7 to a practitioner who is a veterinarian.

8 K. For the purposes of this section:

9 (1) "adult" means an individual who is:

10 (a) over eighteen years of age; or

11 (b) under eighteen years of age and  
12 emancipated;

13 (2) "dispenser" means a person who delivers an  
14 opioid medication to the opioid medication's ultimate user, but  
15 "dispenser" does not mean:

16 (a) a licensed hospital pharmacy that  
17 distributes opioid medications for the purpose of inpatient  
18 hospital care;

19 (b) a practitioner or other authorized  
20 person who directly administers an opioid medication to a  
21 patient;

22 (c) a wholesale distributor of a  
23 Schedule II, III, IV or V controlled substance included in the  
24 Controlled Substance Act; or

25 (d) a health facility that the

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1 department of health licenses as a clinic, urgent care or  
2 emergency facility that dispenses no more than four dosage  
3 units to an individual patient within a twenty-four-hour  
4 period;

5 (3) "emancipated" means the status of being  
6 between sixteen years of age and eighteen years of age and:

7 (a) married;

8 (b) on active duty in the armed forces;

9 or

10 (c) having been declared by court order  
11 to be emancipated;

12 (4) "minor" means an individual under the age  
13 of eighteen who is not emancipated;

14 (5) "opioid medication" means a substance  
15 that:

16 (a) binds to and stimulates the opioid  
17 receptors on the surface of the cell;

18 (b) is specifically indicated to treat  
19 acute pain, chronic pain or cancer pain, cough suppression or  
20 diarrhea, or for opioid replacement therapy or hospice care;

21 (c) is a dangerous drug; and

22 (d) is a Schedule II, III, IV or V  
23 controlled substance included in the Controlled Substances Act;

24 (6) "prescription drug monitoring report"  
25 means a report generated by the prescription drug monitoring

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1 program operated by the board;

2 (7) "Schedule II opioid medication" means an  
3 opioid medication listed in Schedule II of the Controlled  
4 Substances Act; and

5 (8) "Schedule III opioid medication" means an  
6 opioid medication that is listed in Schedule III of the  
7 Controlled Substances Act."

8 SECTION 2. A new section of the New Mexico Drug, Device  
9 and Cosmetic Act is enacted to read:

10 "[NEW MATERIAL] OPIOID MEDICATION PRESCRIBING LIMITS  
11 COUNCIL--MEMBERSHIP--DUTIES.--

12 A. The "opioid medication prescribing limits  
13 council" is created for the purpose of developing opioid  
14 medication prescribing and refill limits for health care  
15 providers in order to reduce the misuse of prescription opioid  
16 medication.

17 B. The council consists of at least eighteen  
18 members, all of whom shall be appointed by the secretary of  
19 health. The membership of the council shall include:

20 (1) the secretary of health or the secretary's  
21 designee;

22 (2) a representative of each of the following  
23 entities:

24 (a) the New Mexico medical board;

25 (b) the board of nursing;

- 1 (c) the board of pharmacy;
- 2 (d) the board of osteopathic medical
- 3 examiners;
- 4 (e) the board of optometry;
- 5 (f) the board of podiatry;
- 6 (g) the New Mexico board of dental
- 7 health care;
- 8 (h) a statewide medical association;
- 9 (i) a statewide association of nurse
- 10 practitioners;
- 11 (j) a statewide association of
- 12 pharmacists;
- 13 (k) a statewide association of
- 14 osteopathic physicians;
- 15 (l) a statewide association of
- 16 optometrists;
- 17 (m) a statewide association of
- 18 podiatrists; and
- 19 (n) a statewide association of dentists;
- 20 (3) a pain management specialist; and
- 21 (4) two patient advocates.

22 C. The secretary of health or the secretary's  
23 designee shall chair the council.

24 D. The council shall meet regularly at the call of  
25 the chair.

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1           E. By September 1, 2012, the council shall develop  
2 recommendations on prescribing and refill limits for opioid  
3 medications that are consistent for all seven licensing boards  
4 represented on the council. The recommendations on prescribing  
5 and refill limits shall be more stringent than those  
6 promulgated by the federal drug enforcement administration and  
7 no less stringent than those of the New Mexico medical board.

8           F. The council shall terminate on December 31,  
9 2012.

10           G. For the purposes of this section, "opioid  
11 medication" means a substance that:

12                   (1) binds to and stimulates the opioid  
13 receptors on the surface of the cell;

14                   (2) is specifically indicated to treat acute  
15 pain, chronic pain or cancer pain, cough suppression or  
16 diarrhea or for opioid replacement therapy or hospice care;

17                   (3) is a dangerous drug; and

18                   (4) is a Schedule II, III, IV or V controlled  
19 substance included in the Controlled Substances Act."

20           **SECTION 3.** Section 61-2-6 NMSA 1978 (being Laws 1973,  
21 Chapter 353, Section 5, as amended) is amended to read:

22           "61-2-6. ORGANIZATION--MEETINGS--COMPENSATION--POWERS AND  
23 DUTIES.--

24           A. The board shall annually elect a [~~chairman~~]  
25 chair, a vice [~~chairman~~] chair and a secretary-treasurer; each



1 shall serve until [~~his~~] a successor is elected and qualified.

2 B. The board shall meet at least annually for the  
3 purpose of examining candidates for licensure. Special  
4 meetings may be called by the [~~chairman~~] chair and shall be  
5 called upon the written request of a majority of the board  
6 members. A majority of the board members currently serving  
7 constitutes a quorum.

8 C. Members of the board may be reimbursed as  
9 provided in the Per Diem and Mileage Act but shall receive no  
10 other compensation, perquisite or allowance.

11 D. The board shall:

12 (1) administer and enforce the provisions of  
13 the Optometry Act;

14 (2) adopt, publish and file, in accordance  
15 with the Uniform Licensing Act and the State Rules Act, all  
16 rules [~~and regulations~~] for the implementation and enforcement  
17 of the provisions of the Optometry Act;

18 (3) adopt and use a seal;

19 (4) administer oaths and take testimony on  
20 matters within the board's jurisdiction;

21 (5) keep an accurate record of meetings,  
22 receipts and disbursements;

23 (6) keep a record of examinations held,  
24 together with the names and addresses of persons taking the  
25 examinations and the examination results. Within thirty days

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1 after an examination, the board shall give written notice to  
2 each applicant examined of the results of the examination as to  
3 the respective applicant;

4 (7) certify as passing each applicant who  
5 obtains a grade of at least seventy-five percent on each  
6 subject upon which ~~[he]~~ the applicant is examined; ~~[providing]~~  
7 provided that an applicant failing may apply for re-examination  
8 at the next scheduled examination date;

9 (8) keep a book of registration in which the  
10 name, address and license number of licensees shall be  
11 recorded, together with a record of license renewals,  
12 suspensions and revocations;

13 (9) grant, deny, renew, suspend or revoke  
14 licenses to practice optometry in accordance with the  
15 provisions of the Uniform Licensing Act for any cause stated in  
16 the Optometry Act;

17 (10) develop and administer qualifications for  
18 certification for the use of topical ocular pharmaceutical  
19 agents and oral pharmaceutical agents as authorized in Section  
20 61-2-10.2 NMSA 1978, including minimum educational requirements  
21 and examination, as required by Section 61-2-10 NMSA 1978 and  
22 provide the board of pharmacy with an annual list of  
23 optometrists certified to use topical ocular pharmaceutical  
24 agents and oral pharmaceutical agents as authorized in Section  
25 61-2-10.2 NMSA 1978; and

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1 (11) provide for the suspension of an  
 2 optometrist's license for sixty days upon a determination of  
 3 use of pharmaceutical agents without prior certification in  
 4 accordance with Section 61-2-10 NMSA 1978, after proper notice  
 5 and an opportunity to be heard before the board.

6 E. By December 1, 2012, the board shall adopt rules  
 7 relating to the prescribing and refilling of prescriptions of  
 8 opioid medications that are consistent with the recommendations  
 9 that the opioid medication prescribing limits council has made  
 10 pursuant to Section 2 of this 2012 act. As used in this  
 11 subsection, "opioid medication" means a substance that:

12 (1) binds to and stimulates the opioid  
 13 receptors on the surface of the cell;

14 (2) is specifically indicated to treat acute  
 15 pain, chronic pain or cancer pain, cough suppression or  
 16 diarrhea or for opioid replacement therapy or hospice care;

17 (3) is a dangerous drug; and

18 (4) is a Schedule II, III, IV or V controlled  
 19 substance included in the Controlled Substances Act."

20 SECTION 4. Section 61-3-10 NMSA 1978 (being Laws 1968,  
 21 Chapter 44, Section 7, as amended by Laws 2003, Chapter 276,  
 22 Section 4 and by Laws 2003, Chapter 307, Section 7) is amended  
 23 to read:

24 "61-3-10. POWERS--DUTIES.--

25 A. The board:

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1           ~~[A.]~~ (1) shall adopt and revise such rules  
2     ~~[and regulations]~~ as may be necessary to enable it to carry  
3     into effect the provisions of the Nursing Practice Act and to  
4     maintain high standards of practice;

5           ~~[B.]~~ (2) shall prescribe standards and approve  
6     curricula for educational programs preparing persons for  
7     licensure under the Nursing Practice Act;

8           ~~[C.]~~ (3) shall provide for surveys of  
9     educational programs preparing persons for licensure under the  
10    Nursing Practice Act;

11          ~~[D.]~~ (4) shall grant, deny or withdraw  
12    approval from educational programs for failure to meet  
13    prescribed standards, if a majority of the board concurs in the  
14    decision;

15          ~~[E.]~~ (5) shall provide for the examination,  
16    licensing and renewal of licenses of applicants;

17          ~~[F.]~~ (6) shall conduct hearings upon charges  
18    relating to discipline of a licensee or nurse not licensed to  
19    practice in New Mexico who is permitted to practice  
20    professional registered nursing or licensed practical nursing  
21    in New Mexico pursuant to a multistate licensure privilege as  
22    provided in the Nurse Licensure Compact or the denial,  
23    suspension or revocation of a license in accordance with the  
24    procedures of the Uniform Licensing Act;

25          ~~[G.]~~ (7) shall cause the prosecution of all

1 persons, including firms, associations, institutions and  
2 corporations, violating the Nursing Practice Act and have the  
3 power to incur such expense as is necessary therefor;

4 [H.] (8) shall keep a record of all  
5 proceedings;

6 [I.] (9) shall make an annual report to the  
7 governor;

8 [J.] (10) shall appoint and employ a qualified  
9 registered nurse, who shall not be a member of the board, to  
10 serve as executive officer to the board, who shall define the  
11 duties and responsibilities of the executive officer, except  
12 that the power to grant, deny or withdraw approval for schools  
13 of nursing or to revoke, suspend or withhold any license  
14 authorized by the Nursing Practice Act shall not be delegated  
15 by the board;

16 [K.] (11) shall provide for such qualified  
17 assistants as may be necessary to carry out the provisions of  
18 the Nursing Practice Act. Such employees shall be paid a  
19 salary commensurate with their duties;

20 [L.] (12) shall, for the purpose of protecting  
21 the health and well-being of the [~~citizens~~] residents of New  
22 Mexico and promoting current nursing knowledge and practice,  
23 adopt rules [~~and regulations~~] establishing continuing education  
24 requirements as a condition of license renewal and shall study  
25 methods of monitoring continuing competence;

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1                   [M.] (13) may appoint advisory committees  
2 consisting of at least one member who is a board member and at  
3 least two members expert in the pertinent field of health care  
4 to assist it in the performance of its duties. Committee  
5 members may be reimbursed as provided in the Per Diem and  
6 Mileage Act;

7                   [N.] (14) may adopt and revise rules [~~and~~  
8 ~~regulations~~] designed to maintain an inactive status listing  
9 for registered nurses and licensed practical nurses;

10                   [O.] (15) may adopt rules and regulations to  
11 regulate the advanced practice of professional registered  
12 nursing and expanded practice of licensed practical nursing;

13                   [P.] (16) shall license qualified certified  
14 nurse practitioners, certified registered nurse anesthetists  
15 and clinical nurse specialists;

16                   [Q.] (17) shall register nurses not licensed  
17 to practice in New Mexico who are permitted to practice  
18 professional registered nursing or licensed practical nursing  
19 in New Mexico pursuant to a multistate licensure privilege as  
20 provided in the Nurse Licensure Compact; and

21                   [R.] (18) shall adopt rules [~~and regulations~~]  
22 establishing standards for authorizing prescriptive authority  
23 to certified nurse practitioners, clinical nurse specialists  
24 and certified registered nurse anesthetists.

25                   B. By December 1, 2012, the board shall adopt rules

1 relating to the prescribing and refilling of prescriptions of  
2 opioid medications that are consistent with the recommendations  
3 that the opioid medication prescribing limits council has made  
4 pursuant to Section 2 of this 2012 act. As used in this  
5 subsection, "opioid medication" means a substance that:

6 (1) binds to and stimulates the opioid  
7 receptors on the surface of the cell;

8 (2) is specifically indicated to treat acute  
9 pain, chronic pain or cancer pain, cough suppression or  
10 diarrhea or for opioid replacement therapy or hospice care;

11 (3) is a dangerous drug; and

12 (4) is a Schedule II, III, IV or V controlled  
13 substance included in the Controlled Substances Act."

14 SECTION 5. Section 61-5A-10 NMSA 1978 (being Laws 1994,  
15 Chapter 55, Section 10, as amended) is amended to read:

16 "61-5A-10. POWERS AND DUTIES OF THE BOARD AND  
17 COMMITTEE.--

18 A. In addition to any other authority provided by  
19 law, the board and the committee, when designated, shall:

20 [A.] (1) enforce and administer the provisions  
21 of the Dental Health Care Act;

22 [B.] (2) adopt, publish, file and revise, in  
23 accordance with the Uniform Licensing Act and the State Rules  
24 Act, all rules as may be necessary to:

25 [†] (a) regulate the examination and

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[bracketed material] = delete

1 licensure of dentists and, through the committee, regulate the  
2 examination and licensure of dental hygienists;

3 [~~(2)~~] (b) provide for the examination  
4 and certification of dental assistants by the board;

5 [~~(3)~~] (c) provide for the regulation of  
6 dental technicians by the board;

7 [~~(4)~~] (d) regulate the practice of  
8 dentistry and dental assisting and, through the committee,  
9 regulate the practice of dental hygiene; and

10 [~~(5)~~] (e) provide for the regulation and  
11 licensure of non-dentist owners by the board;

12 [~~(6)~~] (3) adopt and use a seal;

13 [~~(D)~~] (4) administer oaths to all applicants,  
14 witnesses and others appearing before the board or the  
15 committee, as appropriate;

16 [~~(E)~~] (5) keep an accurate record of all  
17 meetings, receipts and disbursements;

18 [~~(F)~~] (6) grant, deny, review, suspend and  
19 revoke licenses and certificates to practice dentistry, dental  
20 assisting and, through the committee, dental hygiene and  
21 censure, reprimand, fine and place on probation and stipulation  
22 dentists, dental assistants and, through the committee, dental  
23 hygienists, in accordance with the Uniform Licensing Act for  
24 any cause stated in the Dental Health Care Act;

25 [~~(G)~~] (7) grant, deny, review, suspend and



1 revoke licenses to own dental practices and censure, reprimand,  
2 fine and place on probation and stipulation non-dentist owners,  
3 in accordance with the Uniform Licensing Act, for any cause  
4 stated in the Dental Health Care Act;

5 [H.] (8) maintain records of the name,  
6 address, license number and such other demographic data as may  
7 serve the needs of the board of licensees, together with a  
8 record of license renewals, suspensions, revocations,  
9 probations, stipulations, censures, reprimands and fines. The  
10 board shall make available composite reports of demographic  
11 data but shall limit public access to information regarding  
12 individuals to their names, addresses, license numbers and  
13 license actions or as required by statute;

14 [I.] (9) hire and contract for services from  
15 persons as necessary to carry out the board's duties;

16 [J.] (10) establish ad hoc committees whose  
17 members shall be appointed by the chair of the board with the  
18 advice and consent of the board or committee and shall include  
19 at least one member of the board or committee as it deems  
20 necessary for carrying on its business;

21 [K.] (11) have the authority to pay per diem  
22 and mileage to individuals who are appointed by the board or  
23 the committee to serve on ad hoc committees;

24 [L.] (12) have the authority to hire or  
25 contract with investigators to investigate possible violations

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1 of the Dental Health Care Act;

2 [M.] (13) have the authority to issue  
3 investigative subpoenas prior to the issuance of a notice of  
4 contemplated action for the purpose of investigating complaints  
5 against dentists, dental assistants and, through the committee,  
6 dental hygienists licensed under the Dental Health Care Act;

7 [N.] (14) have the authority to sue or be sued  
8 and to retain the services of an attorney at law for counsel  
9 and representation regarding the carrying out of the board's  
10 duties;

11 [O.] (15) have the authority to create and  
12 maintain a formulary, in consultation with the board of  
13 pharmacy, of medications that a dental hygienist may prescribe,  
14 administer or dispense in accordance with rules the board has  
15 promulgated; and

16 [P.] (16) establish continuing education or  
17 continued competency requirements for dentists, certified  
18 dental assistants in expanded functions, dental technicians  
19 and, through the committee, dental hygienists.

20 B. By December 1, 2012, the board shall adopt rules  
21 relating to the prescribing and refilling of prescriptions of  
22 opioid medications that are consistent with the recommendations  
23 that the opioid medication prescribing limits council has made  
24 pursuant to Section 2 of this 2012 act. As used in this  
25 subsection, "opioid medication" means a substance that:

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- 1                   (1) binds to and stimulates the opioid  
2 receptors on the surface of the cell;
- 3                   (2) is specifically indicated to treat acute  
4 pain, chronic pain or cancer pain, cough suppression or  
5 diarrhea or for opioid replacement therapy or hospice care;
- 6                   (3) is a dangerous drug; and
- 7                   (4) is a Schedule II, III, IV or V controlled  
8 substance included in the Controlled Substances Act."

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

11           "61-6-5. DUTIES AND POWERS.--

12           A. The board shall:

13                   [~~A.~~] (1) enforce and administer the provisions  
14 of the Medical Practice Act, the Physician Assistant Act, the  
15 Anesthesiologist Assistants Act, the Genetic Counseling Act,  
16 the Impaired Health Care Provider Act, the Polysomnography  
17 Practice Act and the Naprapathic Practice Act;

18                   [~~B.~~] (2) adopt, publish and file, in  
19 accordance with the Uniform Licensing Act and the State Rules  
20 Act, all rules for the implementation and enforcement of the  
21 provisions of the Medical Practice Act, the Physician Assistant  
22 Act, the Anesthesiologist Assistants Act, the Genetic  
23 Counseling Act, the Impaired Health Care Provider Act, the  
24 Polysomnography Practice Act and the Naprapathic Practice Act;

25                   [~~C.~~] (3) adopt and use a seal;

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1                   [~~D~~.] (4) administer oaths to all applicants,  
2 witnesses and others appearing before the board, as  
3 appropriate;

4                   [~~E~~.] (5) take testimony on matters within the  
5 board's jurisdiction;

6                   [~~F~~.] (6) keep an accurate record of all its  
7 meetings, receipts and disbursements;

8                   [~~G~~.] (7) maintain records in which the name,  
9 address and license number of all licensees shall be recorded,  
10 together with a record of all license renewals, suspensions,  
11 revocations, probations, stipulations, censures, reprimands and  
12 fines;

13                   [~~H~~.] (8) grant, deny, review, suspend and  
14 revoke licenses to practice medicine and censure, reprimand,  
15 fine and place on probation and stipulation licensees and  
16 applicants in accordance with the Uniform Licensing Act for any  
17 cause stated in the Medical Practice Act, the Impaired Health  
18 Care Provider Act and the Naprapathic Practice Act;

19                   [~~I~~.] (9) hire staff and administrators as  
20 necessary to carry out the provisions of the Medical Practice  
21 Act;

22                   [~~J~~.] (10) have the authority to hire or  
23 contract with investigators to investigate possible violations  
24 of the Medical Practice Act;

25                   [~~K~~.] (11) have the authority to hire a

1 competent attorney to give advice and counsel in regard to any  
 2 matter connected with the duties of the board, to represent the  
 3 board in any legal proceedings and to aid in the enforcement of  
 4 the laws in relation to the medical profession and to fix the  
 5 compensation to be paid to such attorney; provided, however,  
 6 that such attorney shall be compensated from the funds of the  
 7 board;

8 [~~L.~~] (12) establish continuing medical  
 9 education requirements for licensed physicians and continuing  
 10 education requirements for physician assistants;

11 [~~M.~~] (13) establish committees as it deems  
 12 necessary for carrying on its business;

13 [~~N.~~] (14) hire or contract with a licensed  
 14 physician to serve as medical director and fulfill specified  
 15 duties of the secretary-treasurer;

16 [~~O.~~] (15) establish and maintain rules related  
 17 to the management of pain based on review of national standards  
 18 for pain management; and

19 [~~P.~~] (16) have the authority to waive  
 20 licensure fees for the purpose of medical doctor recruitment  
 21 and retention.

22 B. By December 1, 2012, the board shall adopt rules  
 23 relating to the prescribing and refilling of prescriptions of  
 24 opioid medications that are consistent with the recommendations  
 25 that the opioid medication prescribing limits council has made

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1 pursuant to Section 2 of this 2012 act. As used in this  
2 subsection, "opioid medication" means a substance that:

3 (1) binds to and stimulates the opioid  
4 receptors on the surface of the cell;

5 (2) is specifically indicated to treat acute  
6 pain, chronic pain or cancer pain, cough suppression or  
7 diarrhea or for opioid replacement therapy or hospice care;

8 (3) is a dangerous drug; and

9 (4) is a Schedule II, III, IV or V controlled  
10 substance included in the Controlled Substances Act."

11 SECTION 7. Section 61-8-6 NMSA 1978 (being Laws 1977,  
12 Chapter 221, Section 6, as amended) is amended to read:

13 "61-8-6. BOARD ORGANIZATION--MEETINGS--COMPENSATION--  
14 POWERS AND DUTIES.--

15 A. The board shall hold a regular meeting at least  
16 annually and shall elect annually a [~~chairman~~] chair, vice  
17 [~~chairman~~] chair and secretary-treasurer from its membership,  
18 each of whom shall serve until [~~his~~] a successor is selected  
19 and qualified.

20 B. The board shall hold a minimum of one  
21 examination for licensure each year in the month of June or  
22 July at a place and at a time designated by the board. Notice  
23 of the examination shall be given to all applicants at least  
24 thirty days prior to the date of the examination.

25 C. Special meetings may be called by the [~~chairman~~]

1 chair and shall be called upon the written request of any three  
2 board members. Notice of all meetings shall be made in  
3 conformance with the Open Meetings Act.

4 D. Members of the board may be reimbursed as  
5 provided in the Per Diem and Mileage Act, but shall receive no  
6 other compensation, perquisite or allowance.

7 E. The board shall:

8 (1) administer and enforce the provisions of  
9 the Podiatry Act;

10 (2) adopt, publish and file, in accordance  
11 with the Uniform Licensing Act and the State Rules Act, all  
12 rules for the implementation and enforcement of the provisions  
13 of the Podiatry Act;

14 (3) adopt and use a seal;

15 (4) conduct hearings, administer oaths and  
16 take testimony on [~~any~~] matters within the board's  
17 jurisdiction;

18 (5) keep an accurate record of its meetings,  
19 receipts and disbursements;

20 (6) keep a record of licensure examinations  
21 held, together with the names and addresses of persons taking  
22 the examinations and the examination results. Within forty-  
23 five days after [~~any~~] an examination, the board shall give  
24 written notice to each applicant examined of the results of the  
25 examination as to the respective applicant;

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1 (7) certify as passing each applicant who  
2 obtains a passing score, as defined by board rule, on  
3 examinations administered or approved by the board;

4 (8) keep records of registration in which the  
5 name, address and license number of licensed podiatrists are  
6 recorded, together with a record of license renewals,  
7 suspensions and revocations;

8 (9) grant, deny, renew, suspend or revoke  
9 licenses to practice podiatry or take other actions provided in  
10 Section 61-1-3 NMSA 1978 in accordance with the provisions of  
11 the Uniform Licensing Act for any cause stated in the Podiatry  
12 Act;

13 (10) adopt and promulgate rules setting  
14 standards of preliminary and professional qualifications for  
15 the practice of podiatry;

16 (11) adopt and promulgate rules and prepare  
17 and administer examinations for the licensure and regulation of  
18 podiatric assistants as are necessary to protect the public.  
19 The rules shall include definitions and limitations on the  
20 practice of podiatric assistants, qualifications for applicants  
21 for licensure, an initial license fee in an amount not to  
22 exceed two hundred fifty dollars (\$250) and a renewal fee not  
23 to exceed one hundred dollars (\$100) per year, provisions for  
24 the regulation of podiatric assistants and provisions for the  
25 suspension or revocation of licenses;

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1 (12) determine by rule all qualifications and  
2 requirements for applicants seeking licensure as podiatrists or  
3 podiatric assistants; and

4 (13) adopt rules and prepare and administer  
5 examinations for applicants seeking licensure as foot and ankle  
6 radiation technologists.

7 F. By December 1, 2012, the board shall adopt rules  
8 relating to the prescribing and refilling of prescriptions of  
9 opioid medications that are consistent with the recommendations  
10 that the opioid medication prescribing limits council has made  
11 pursuant to Section 2 of this 2012 act. As used in this  
12 subsection, "opioid medication" means a substance that:

13 (1) binds to and stimulates the opioid  
14 receptors on the surface of the cell;

15 (2) is specifically indicated to treat acute  
16 pain, chronic pain or cancer pain, cough suppression or  
17 diarrhea or for opioid replacement therapy or hospice care;

18 (3) is a dangerous drug; and

19 (4) is a Schedule II, III, IV or V controlled  
20 substance included in the Controlled Substances Act."

21 **SECTION 8.** Section 61-10-5 NMSA 1978 (being Laws 1933,  
22 Chapter 117, Section 4, as amended) is amended to read:

23 "61-10-5. BOARD OF EXAMINERS--APPOINTMENT--TERMS--  
24 MEETINGS--MEMBERSHIP--EXAMINATIONS.--

25 A. There is created the "board of osteopathic

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1 medical examiners". The board shall be administratively  
2 attached to the regulation and licensing department. The board  
3 consists of five members appointed by the governor; three  
4 members shall be regularly licensed osteopathic physicians in  
5 good standing in New Mexico, who have been so engaged for a  
6 period of at least two years immediately prior to their  
7 appointment and who are possessed of all the qualifications for  
8 applicants for licensure specified in Section 61-10-8 NMSA  
9 1978, and two members shall represent the public. The public  
10 members of the board shall not have been licensed as  
11 osteopathic physicians, nor shall the public members have any  
12 significant financial interest, direct or indirect, in the  
13 occupation regulated.

14 B. Board members' terms shall be for five years.  
15 The vacancy of the term of a member shall be filled by  
16 appointment by the governor to the unexpired portion of the  
17 five-year term. A board member whose term has expired shall  
18 serve until [~~his~~] a successor is appointed.

19 C. The board shall meet during the first quarter of  
20 the fiscal year and shall elect officers for the ensuing fiscal  
21 year. The board may hold other meetings as it deems necessary.  
22 A majority of the board constitutes a quorum.

23 D. The board shall have and use a common seal and  
24 is authorized to make and adopt all necessary rules [~~and~~  
25 ~~regulations~~] relating to the enforcement of the provisions of

1 Chapter 61, Article 10 NMSA 1978.

2 E. Examinations shall be made at least twice a year  
3 at the time and place fixed by the board. All applicants shall  
4 be given written notice of examinations at a reasonable prior  
5 date.

6 F. Members of the board shall be reimbursed as  
7 provided in the Per Diem and Mileage Act, but shall receive no  
8 other compensation, perquisite or allowance, for each day  
9 necessarily spent in the discharge of their duties.

10 G. A board member failing to attend three  
11 consecutive meetings, either regular or special, shall  
12 automatically be removed as a member of the board.

13 H. By December 1, 2012, the board shall adopt rules  
14 relating to the prescribing and refilling of prescriptions of  
15 opioid medications that are consistent with the recommendations  
16 that the opioid medication prescribing limits council has made  
17 pursuant to Section 2 of this 2012 act. As used in this  
18 subsection, "opioid medication" means a substance that:

19 (1) binds to and stimulates the opioid  
20 receptors on the surface of the cell;

21 (2) is specifically indicated to treat acute  
22 pain, chronic pain or cancer pain, cough suppression or  
23 diarrhea or for opioid replacement therapy or hospice care;

24 (3) is a dangerous drug; and

25 (4) is a Schedule II, III, IV or V controlled

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1 substance included in the Controlled Substances Act."

2 SECTION 9. Section 61-11-6 NMSA 1978 (being Laws 1969,  
3 Chapter 29, Section 5, as amended) is amended to read:

4 "61-11-6. POWERS AND DUTIES OF BOARD.--

5 A. The board shall:

6 (1) adopt, amend or repeal rules [~~and~~  
7 ~~regulations~~] necessary to carry out the provisions of the  
8 Pharmacy Act in accordance with the provisions of the Uniform  
9 Licensing Act;

10 (2) provide for examinations of applicants for  
11 licensure as pharmacists;

12 (3) provide for the issuance and renewal of  
13 licenses for pharmacists;

14 (4) require and establish criteria for  
15 continuing education as a condition of renewal of licensure for  
16 pharmacists;

17 (5) provide for the issuance and renewal of  
18 licenses for pharmacist interns and for their training,  
19 supervision and discipline;

20 (6) provide for the licensing of retail  
21 pharmacies, nonresident pharmacies, wholesale drug  
22 distributors, drug manufacturers, hospital pharmacies, nursing  
23 home drug facilities, industrial and public health clinics and  
24 all places where dangerous drugs are stored, distributed,  
25 dispensed or administered and provide for the inspection of the

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1 facilities and activities;

2 (7) enforce the provisions of all laws of the  
3 state pertaining to the practice of pharmacy and the  
4 manufacture, production, sale or distribution of drugs or  
5 cosmetics and their standards of strength and purity;

6 (8) conduct hearings upon charges relating to  
7 the discipline of a registrant or licensee or the denial,  
8 suspension or revocation of a registration or a license in  
9 accordance with the Uniform Licensing Act;

10 (9) cause the prosecution of any person  
11 violating the Pharmacy Act, the New Mexico Drug, Device and  
12 Cosmetic Act or the Controlled Substances Act;

13 (10) keep a record of all proceedings of the  
14 board;

15 (11) make an annual report to the governor;

16 (12) appoint and employ, in the board's  
17 discretion, a qualified person who is not a member of the board  
18 to serve as executive director and define the executive  
19 director's duties and responsibilities; except that the power  
20 to deny, revoke or suspend any license or registration  
21 authorized by the Pharmacy Act shall not be delegated by the  
22 board;

23 (13) appoint and employ inspectors necessary  
24 to enforce the provisions of all acts under the administration  
25 of the board, which inspectors shall be pharmacists and have

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1 all the powers and duties of peace officers;

2 (14) provide for other qualified employees  
3 necessary to carry out the provisions of the Pharmacy Act;

4 (15) have the authority to employ a competent  
5 attorney to give advice and counsel in regard to any matter  
6 connected with the duties of the board, to represent the board  
7 in any legal proceedings and to aid in the enforcement of the  
8 laws in relation to the pharmacy profession and to fix the  
9 compensation to be paid to the attorney; provided, however,  
10 that the attorney shall be compensated from the money of the  
11 board, including that provided for in Section 61-11-19 NMSA  
12 1978;

13 (16) register and regulate qualifications,  
14 training and permissible activities of pharmacy technicians;

15 (17) provide a registry of all persons  
16 licensed as pharmacists or pharmacist interns in the state;

17 (18) adopt rules [~~and regulations~~] that  
18 prescribe the activities and duties of pharmacy owners and  
19 pharmacists in the provision of pharmaceutical care, emergency  
20 prescription dispensing, drug regimen review and patient  
21 counseling in each practice setting;

22 (19) adopt, after approval by the New Mexico  
23 medical board [~~of medical examiners~~] and the board of nursing,  
24 rules and protocols for the prescribing of dangerous drug  
25 therapy, including vaccines and immunizations, and the

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1 appropriate notification of the primary or appropriate  
2 physician of the person receiving the dangerous drug therapy;  
3 and

4 (20) have the authority to authorize emergency  
5 prescription dispensing.

6 B. The board may:

7 (1) delegate its authority to the executive  
8 director to issue temporary licenses as provided in Section  
9 61-11-14 NMSA 1978;

10 (2) provide by regulation for the electronic  
11 transmission of prescriptions; and

12 (3) delegate its authority to the executive  
13 director to authorize emergency prescription dispensing  
14 procedures during civil or public health emergencies.

15 C. By December 1, 2012, the board shall adopt rules  
16 relating to the prescribing and refilling of prescriptions of  
17 opioid medications that are consistent with the recommendations  
18 that the opioid medication prescribing limits council has made  
19 pursuant to Section 2 of this 2012 act. As used in this  
20 subsection, "opioid medication" means a substance that:

21 (1) binds to and stimulates the opioid  
22 receptors on the surface of the cell;

23 (2) is specifically indicated to treat acute  
24 pain, chronic pain or cancer pain, cough suppression or  
25 diarrhea, or for opioid replacement therapy or hospice care;

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1                                   (3) is a dangerous drug; and  
2                                   (4) is a Schedule II, III, IV or V controlled  
3 substance included in the Controlled Substances Act."

underscoring material = new  
[bracketed material] = delete