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HOUSE BILL 926

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

DANNY CARPENTER

AN ACT

RELATING TO LICENSURE; AMENDING THE PODIATRY ACT; BROADENING THE SCOPE OF PRACTICE OF PODIATRISTS; LICENSING AND REGULATING FOOT AND ANKLE RADIATION TECHNOLOGISTS AND PODIATRIC ASSISTANTS; INCREASING FEES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

Section 1. Section 61-8-1 NMSA 1978 (being Laws 1977, Chapter 221, Section 1) is amended to read:

"61-8-1. SHORT TITLE. -- ~~[This act]~~ Chapter 61, Article 8 NMSA 1978 may be cited as the "Podiatry Act". "

Section 2. Section 61-8-2 NMSA 1978 (being Laws 1977, Chapter 221, Section 2) is amended to read:

"61-8-2. DEFINITIONS. -- As used in the Podiatry Act:

A. "board" means the board of podiatry; and

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1           B. "practice of podiatry" means engaging in that  
2 primary health care profession, the members of which examine,  
3 diagnose, treat and prevent by medical, surgical and  
4 [~~mechanical~~] biomechanical means ailments affecting the human  
5 foot and ankle and the structures governing their functions ~~but~~  
6 ~~does not include amputation of the foot or the personal~~  
7 ~~administration of a general anesthetic~~. A podiatrist, [~~under~~]  
8 pursuant to the laws of this state, is defined as a [~~foot or~~  
9 ~~podiatric~~] physician [~~and~~

10           C. ~~"podiatry" and "podiatrist" are synonymous with~~  
11 ~~the words "chiropody" and "chiroprapist"]~~ and surgeon within the  
12 scope of his license. "

13           Section 3. Section 61-8-3 NMSA 1978 (being Laws 1977,  
14 Chapter 221, Section 3) is amended to read:

15           "61-8-3. LICENSE REQUIRED. -- Unless licensed as a  
16 podiatrist [~~under~~] pursuant to the provisions of the Podiatry  
17 Act or exempted from that act pursuant to Section 61-8-4 NMSA  
18 1978, no person shall practice podiatry. "

19           Section 4. Section 61-8-4 NMSA 1978 (being Laws 1977,  
20 Chapter 221, Section 4) is amended to read:

21           "61-8-4. PERSONS EXEMPTED. -- The Podiatry Act shall not  
22 apply to:

- 23           A. gratuitous services rendered in cases of  
24 emergency;  
25           B. the domestic administration of family remedies

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1 not involving remuneration;

2 C. medical officers of the United States service in  
3 the actual performance of their official duties ~~[nor shall]~~.

4 The provisions of the Podiatry Act shall not be so construed as  
5 to be in conflict with existing laws regulating the practice of  
6 the healing arts other than podiatry in this state;

7 ~~[D. visiting podiatrists called into this state for  
8 consultation from another state, provided that such person is  
9 duly licensed and qualified in the state of his residence; such  
10 visitations, however, shall be limited in duration if, in the  
11 opinion of the board, such person is actually engaging in the  
12 practice of podiatry in this state; and]~~

13 D. a podiatrist duly licensed in another state who,  
14 on a temporary basis, consults, advises or cooperates in patient  
15 treatment with a podiatrist licensed in New Mexico, subject to  
16 regulations promulgated by the board; and

17 E. the fitting, recommending or sale of corrective  
18 shoes, arch supports or similar mechanical devices by retail  
19 dealers or manufacturers; provided that the representatives,  
20 agents or employees of such dealers or manufacturers do not  
21 diagnose, treat or prescribe mechanically or otherwise for any  
22 ailment, disease or deformity of the foot or leg. "

23 Section 5. Section 61-8-5 NMSA 1978 (being Laws 1977,  
24 Chapter 221, Section 5, as amended) is amended to read:

25 "61-8-5. BOARD CREATED--MEMBERS--QUALIFICATIONS--TERMS--

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1 VACANCIES-- REMOVAL. --

2 A. There is created a "board of podiatry". The  
3 board shall consist of five members, three of whom shall be  
4 podiatrists licensed to practice in New Mexico who have been  
5 [~~members of the New Mexico podiatry society and~~] actively  
6 engaged in the practice of podiatry for at least three  
7 consecutive years immediately prior to their appointments and  
8 two members who shall represent the public and who shall not  
9 have been licensed as podiatrists, nor shall the public members  
10 have any significant financial interest, whether direct or  
11 indirect, in the occupation regulated.

12 B. Members of the board required to be licensed  
13 podiatrists shall be appointed by the governor [~~from a list of~~  
14 ~~not more than five names for each vacancy submitted to him by~~  
15 ~~the New Mexico podiatry society~~]. Board members shall be  
16 appointed for staggered terms of five years each, made in such a  
17 manner that the terms of not more than two board members end on  
18 December 31 of each year commencing with 1978. Board members  
19 shall serve until their successors have been appointed and  
20 qualified. A vacancy shall be filled for the unexpired term by  
21 appointment by the governor. All members of the state board of  
22 podiatry in office on the effective date of the Podiatry Act  
23 shall serve out their unexpired terms.

24 C. The governor may remove any member from the board  
25 for neglect of any duty required by law, for incompetence, for

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1 improper or unprofessional conduct as defined by board  
2 regulation or for any reason ~~which~~ that would justify the  
3 suspension or revocation of his license to practice podiatry.

4 D. No board member shall serve more than two  
5 consecutive full terms, and any member failing to attend, after  
6 proper notice, three consecutive meetings shall ~~automatically~~  
7 be removed as a board member unless excused for reasons set  
8 forth in board regulations.

9 E. In the event of a vacancy for any reason, the  
10 secretary of the board shall immediately notify the governor,  
11 the board members and the New Mexico podiatry society of the  
12 vacancy, the reason for its occurrence and the action taken by  
13 the board, so as to expedite the appointment of a new board  
14 member. "

15 Section 6. Section 61-8-6 NMSA 1978 (being Laws 1977,  
16 Chapter 221, Section 6) is amended to read:

17 "61-8-6. BOARD ORGANIZATION-- MEETINGS-- COMPENSATION--  
18 POWERS AND DUTIES. --

19 A. The board shall ~~meet~~ hold regular meetings at  
20 least annually ~~[in the month of June or July]~~ and shall elect  
21 annually a chairman, vice chairman and [a] secretary-treasurer  
22 from ~~[their]~~ its membership, each of whom shall serve until his  
23 successor is selected and qualified.

24 B. The board shall hold a minimum of one examination  
25 for licensure each year in the month of June or July at such a

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1 place and at such a time as the board may designate. Notice of  
2 [such] the examination shall be given to all applicants at least  
3 thirty days prior to the date of [such] the examination. [The  
4 board shall adopt and file in accordance with the State Rules  
5 Act such regulations as it deems necessary to properly conduct  
6 its examinations and meetings.]

7 C. Special meetings may be called by the chairman  
8 and shall be called upon the written request of any three board  
9 members. Notice of all [regular] meetings shall be made [by  
10 regular mail at least ten days prior to such meeting, and  
11 notification of special meetings shall be made by certified mail  
12 unless such notice is waived by the entire board and the action  
13 noted in the minutes] in conformance with the Open Meetings Act.

14 D. Members of the board may be reimbursed as  
15 provided in the Per Diem and Mileage Act, but shall receive no  
16 other compensation, perquisite or allowance [except that the  
17 secretary treasurer may receive an additional honorarium in an  
18 amount determined by the board].

19 E. The board shall:

20 (1) administer and enforce the provisions of  
21 the Podiatry Act;

22 (2) adopt, publish and file, in accordance with  
23 the Uniform Licensing Act and the State Rules Act, all rules and  
24 regulations for the implementation and enforcement of the  
25 provisions of the Podiatry Act;

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(3) adopt and use a seal;

(4) conduct hearings, administer oaths and take testimony on any matters within the board's jurisdiction;

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

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

(7) certify as passing each applicant who obtains a ~~[grade of at least sixty percent on each subject upon which he is examined and an overall grade of seventy five percent]~~ passing score on examinations administered or approved by the board;

(8) keep ~~[a book]~~ records of registration in which the name, address and license number of all licensed podiatrists ~~[shall be]~~ are recorded, together with a record of all license renewals, suspensions and revocations;

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

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1 (10) adopt regulations setting standards of  
2 preliminary and professional qualifications for the practice of  
3 podiatry;

4 [~~(11) investigate, review and accredit any~~  
5 ~~school or college of podiatric medicine requesting accreditation~~  
6 ~~and meeting standards set by the board. Such standards shall~~  
7 ~~provide that accreditation of a school or college of podiatric~~  
8 ~~medicine by the council on podiatry education of the American~~  
9 ~~podiatry association is a prerequisite to accreditation by the~~  
10 ~~board;~~

11 ~~(12)]~~ (11) adopt such regulations and prepare  
12 and administer such examinations for the licensure and  
13 regulation of podiatric ~~[hygienists]~~ assistants as are necessary  
14 to protect the public. The regulations shall include  
15 definitions and limitations on the practice of podiatric ~~hy-~~  
16 ~~gienists]~~ assistants; qualifications for applicants for  
17 licensure; [a] an initial license fee in an amount not to exceed  
18 ~~[ten dollars (\$10.00)]~~ two hundred fifty dollars (\$250) and a  
19 renewal fee not to exceed one hundred dollars (\$100) per year;  
20 provisions for the regulation of podiatric ~~[hygienists]~~  
21 assistants and the suspension or revocation of licenses. The  
22 qualifications for an applicant for licensure shall ~~[require~~  
23 ~~that the applicant has successfully completed at least one year~~  
24 ~~of academic education in an institution accredited by the~~  
25 ~~council on podiatry education of the American podiatry~~

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1 ~~association or holds a current license as a registered nurse or~~  
2 ~~a licensed practical nurse]~~ be determined by regulation of the  
3 board; [and]

4 (12) adopt regulations and prepare and  
5 administer examinations for licensure and regulation of foot and  
6 ankle radiation technologists; and

7 (13) have the power to employ agents or  
8 attorneys."

9 Section 7. Section 61-8-7 NMSA 1978 (being Laws 1977,  
10 Chapter 221, Section 7) is amended to read:

11 "61-8-7. DISPOSITION OF FUNDS--PODIATRY FUND CREATED--  
12 METHOD OF PAYMENTS--BONDS.--

13 A. There is created the "podiatry fund".

14 B. All funds received by the board and money collected  
15 under the Podiatry Act shall be deposited with the state  
16 treasurer who shall place the same to the credit of the podiatry  
17 fund.

18 C. All payments out of the podiatry fund shall be made  
19 on vouchers issued and signed by the secretary-treasurer of the  
20 board upon warrants drawn by the ~~[department]~~ secretary of  
21 finance and administration in accordance with the budget  
22 approved by the state budget division of that department.

23 D. All amounts in the podiatry fund shall be subject  
24 to the order of the board and shall be used only for the purpose  
25 of meeting the necessary expenses incurred in:

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1                   (1) the performance of the provisions of the  
2 Podiatry Act and the powers and duties imposed ~~[thereby]~~ by that  
3 act; and

4                   (2) the promotion of education and standards of  
5 practice in the field of podiatry in New Mexico within the  
6 budgetary limits.

7                   E. All ~~[funds which may have]~~ money that has  
8 accumulated to the credit of the board under any previous law  
9 shall be transferred to the podiatry fund and shall continue to  
10 be available for use by the board in accordance with the  
11 provisions of the Podiatry Act. Balances at the end of the  
12 fiscal year shall not revert, but shall remain in the podiatry  
13 fund for use in accordance with the provisions of the Podiatry  
14 Act.

15                   ~~[F. The secretary treasurer and any employee who~~  
16 ~~handles money or who certifies the receipt or disbursement of money~~  
17 ~~received by the board shall, within thirty days after election~~  
18 ~~or employment by the board, execute a bond in accordance with~~  
19 ~~the provisions of the Surety Bond Act, conditioned on the~~  
20 ~~faithful performance of the duties of the office or position and~~  
21 ~~on an accounting of all funds coming into his hands.~~

22                   ~~G. The secretary treasurer shall make, at the end of~~  
23 ~~each fiscal year, an itemized report to the governor of all~~  
24 ~~receipts and disbursements of the board for that fiscal year,~~  
25 ~~together with a report of the records and information required~~

1 by the Podiatry Act. A copy of the annual report to the  
2 governor shall be presented to the board at its annual meeting  
3 in June or July." "

4 Section 8. Section 61-8-8 NMSA 1978 (being Laws 1977,  
5 Chapter 221, Section 8) is amended to read:

6 "61-8-8. QUALIFICATIONS FOR LICENSURE AS A PODIATRIST--  
7 EXAMINATION. --

8 A. Each applicant for licensure as a podiatrist shall  
9 furnish evidence satisfactory to the board that the applicant:

10 [~~A.~~] (1) has reached the age of majority;

11 [~~B.~~] (2) is of good moral character; [~~and of~~  
12 ~~temperate habits; and~~

13 [~~C.~~] (3) has graduated and been awarded a doctor  
14 of podiatric medicine degree from [a] an accredited college of  
15 podiatric medicine approved [~~and accredited by regulation of~~] by  
16 the board [~~and. In the event the applicant applies for~~  
17 ~~licensure under the provisions for reciprocity, he shall have~~  
18 ~~been awarded a doctor of podiatric medicine degree from a school~~  
19 ~~or college of podiatric medicine approved and accredited by the~~  
20 ~~board which had a minimum course of study of four academic years~~  
21 ~~of instruction or its equivalent leading to such degree; and~~

22 (4) has completed, at a minimum, a one-year  
23 residency program at an accredited hospital approved by the  
24 American podiatric medical association council on education.

25 B. Each applicant shall file his application under

1 oath on forms supplied by the board and shall pay the required  
2 fees.

3 C. An applicant for licensure by examination shall  
4 submit evidence to the board that he has successfully passed the  
5 examinations administered by the national board of podiatry  
6 examiners for students graduating from colleges of podiatry and  
7 shall furnish the board an official transcript and take such  
8 clinical and written examinations as the board deems necessary.  
9 The examinations shall be in English, and the subjects covered  
10 by the examinations shall be determined by the board and taken  
11 from subjects taught in accredited colleges of podiatric  
12 medicine. No applicant for licensure by examination shall be  
13 licensed who has not received a passing score on all board-  
14 approved or board-administered examinations."

15 Section 9. Section 61-8-9 NMSA 1978 (being Laws 1977,  
16 Chapter 221, Section 9) is amended to read:

17 "61-8-9. LICENSURE BY ~~[EXAMINATION—LICENSURE BY]~~  
18 RECIPROCITY. -- ~~[A.—An applicant for licensure by examination~~  
19 ~~shall meet the qualifications set forth in Section 67-6-8 NMSA~~  
20 ~~1953 shall submit evidence to the board that he has successfully~~  
21 ~~passed the examinations administered by the national board of~~  
22 ~~podiatry examiners and furnish the board with an official~~  
23 ~~transcript thereof, shall file his application under oath on~~  
24 ~~forms supplied by the board and shall take such oral, clinical~~  
25 ~~and written examinations as the board deems necessary. The~~

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1 ~~examinations shall be in the English language, and the subjects~~  
2 ~~covered by the examinations shall be determined by the board and~~  
3 ~~taken from subjects taught in accredited colleges of podiatric~~  
4 ~~medicine. The minimum requirements for licensing qualified~~  
5 ~~applicants shall be an overall grade average of seventy-five~~  
6 ~~percent and a grade of not less than sixty percent in any one~~  
7 ~~subject.~~

8 B.] An applicant for licensure by reciprocity shall  
9 meet the qualifications set forth in Section ~~[67-6-8 NMSA 1953]~~  
10 61-8-8 NMSA 1978, shall file his application under oath on forms  
11 supplied by the board ~~[which]~~ that conform to board regulations  
12 on reciprocity, shall furnish proof satisfactory to the board of  
13 his having been licensed by examination in another state ~~[which]~~  
14 that had qualifications equal to or exceeding those ~~[required~~  
15 ~~in]~~ of this state on the date of his original licensure and  
16 shall satisfy the board that he holds the degree of doctor of  
17 podiatric medicine from ~~[a]~~ an accredited college of podiatric  
18 medicine approved by the board. In addition, each applicant for  
19 registration ~~[under]~~ pursuant to the provisions for ~~[reciprocal]~~  
20 licensure by reciprocity shall furnish the board an affidavit  
21 from his state board showing current registration and the fact  
22 that he has been licensed to practice podiatry and that he has  
23 practiced podiatry for at least five consecutive years  
24 immediately preceding the filing of his application for  
25 reciprocal privilege. The applicant shall ~~[further furnish an~~

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1 ~~endorsement from his state podiatry association or society that~~  
2 ~~the applicant has been a member in good standing of such state~~  
3 ~~organization and also of the American podiatry association for~~  
4 ~~at least three years immediately preceding the filing of his~~  
5 ~~application, and the applicant shall] also take and pass such~~  
6 ~~[oral and clinical] supplemental examinations as the board deems~~  
7 ~~necessary, [The provisions of this paragraph shall be acceptable~~  
8 ~~by the board in lieu of the written portion of the examination.~~

9 C. ~~All applicants successfully passing the~~  
10 ~~examinations shall be issued a license by the board upon the~~  
11 ~~payment of the appropriate fee.~~

12 D. ~~The board shall adopt such regulations as it deems~~  
13 ~~necessary to conduct oral, clinical and written examinations and~~  
14 ~~shall provide the necessary books, blanks and forms for the~~  
15 ~~conduct of such examinations] if required by board regulation "~~

16 Section 10. Section 61-8-10 NMSA 1978 (being Laws 1977,  
17 Chapter 221, Section 10, as amended) is amended to read:

18 "61-8-10. LICENSE FEES-- LICENSURE UNDER PRIOR LAW -  
19 RENEWAL. --

20 A. ~~[Applicants] An applicant for licensure as a~~  
21 ~~podiatrist shall pay the following fees:~~

22 (1) for licensure by ~~[oral, clinical and such~~  
23 ~~written] examination [as the board deems necessary, a fee set by~~  
24 ~~the board in an amount]:~~

25 (a) an examination fee equal to the cost of

1 purchasing the examination, plus an administration fee not to  
2 exceed fifty percent of the examination fee; and

3 (b) an application fee not to exceed five  
4 hundred dollars (\$500) for licensure by examination;

5 (2) for licensure on the basis of reciprocity, a  
6 fee set by the board in an amount not to exceed ~~[five hundred~~  
7 ~~dollars (\$500)]~~ six hundred dollars (\$600);

8 ~~[(3) for the issuance of a certificate of~~  
9 ~~license, a fee set by the board in an amount not to exceed~~  
10 ~~twenty five dollars (\$25.00);~~

11 ~~(4)]~~ (3) for the annual renewal of license on or  
12 before January 1 of each year, a renewal fee set by the board in  
13 an amount not to exceed ~~[two hundred dollars (\$200)]~~ three  
14 hundred dollars (\$300);

15 ~~[(5)]~~ (4) for the late renewal after January 1 of  
16 each year, a late charge not to exceed fifty dollars (\$50.00)  
17 per month or part thereof commencing on January 2;

18 ~~[(6)]~~ (5) in addition to the renewal fees and  
19 late charges, the applicant for the renewal of a license shall  
20 pay a reinstatement fee not to exceed two hundred fifty dollars  
21 (\$250) for the first twelve months of delinquency and a  
22 reinstatement fee of five hundred dollars (\$500) for a license  
23 that has lapsed more than one year but not more than three  
24 years; and

25 ~~[(7)]~~ (6) for the issuance of a temporary

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1 license, a fee not to exceed one hundred dollars (\$100).

2 B. If any licensee permits his license to lapse for a  
3 period of three full years, the license shall automatically be  
4 canceled and shall not be reinstated.

5 C. The provisions of Paragraphs (3), (4) and (5) [~~and~~  
6 ~~(6)~~] of Subsection A of this section shall not apply to  
7 licensees who practice in the service of the United States whose  
8 licenses shall be renewed upon application for such renewal  
9 within three months after the termination of such service.

10 D. Current renewal certificates issued by the board  
11 shall be displayed in the office of the licensee and, in the  
12 case of the suspension or revocation of a license, no portion of  
13 a fee or penalty shall be returned.

14 E. Any person licensed as a podiatrist under the  
15 provisions of any prior laws of New Mexico, whose license is  
16 valid on the effective date of the Podiatry Act, shall be held  
17 to be licensed under the provisions of the Podiatry Act and  
18 shall be entitled to the [~~biennial~~] renewal of his current  
19 license [~~as provided in that law~~]. "

20 Section 11. Section 61-8-11 NMSA 1978 (being Laws 1977,  
21 Chapter 221, Section 11) is amended to read:

22 "61-8-11. SUSPENSION, REVOCATION OR REFUSAL OF LICENSE. --  
23 The board may refuse to issue or may suspend or revoke any  
24 license or take other action specified in Section 61-1-3 NMSA  
25 1978 in accordance with the provisions of the Uniform Licensing

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1 Act for any one or more of the following reasons:

2 A. making a false statement in any ~~[affidavit required~~  
3 ~~for]~~ part of an application for licensure, examination or  
4 registration ~~[under]~~ pursuant to the provisions of the Podiatry  
5 Act;

6 B. conviction of a crime involving moral turpitude, as  
7 shown by a certified copy of the record of the court of  
8 conviction;

9 C. the habitual indulgence in the use of narcotics,  
10 ~~[ardent spirits, stimulants]~~ alcohol or other substances ~~[which]~~  
11 that impair intellect and judgment to an extent as will, in the  
12 opinion of the board, incapacitate a podiatrist from the proper  
13 performance of his professional duties;

14 D. lending the use of one's name to an unlicensed  
15 podiatrist;

16 E. selling, giving or prescribing any compound or  
17 substance containing narcotic drugs or other controlled  
18 substances for illegal purposes;

19 F. the willful ~~[betrayal of a professional confidence]~~  
20 violation of a patient's right to confidentiality

21 ~~[G. soliciting the public in any manner prohibited by~~  
22 ~~the Podiatry Act;~~

23 ~~H. use of advertising in any manner, except as~~  
24 ~~permitted by Subsection B of Section 67-6-13 NMSA 1953;~~

25 ~~I.]~~ G. gross malpractice or incompetency as defined by

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1 board regulation; or

2 [~~F-~~] H. any dishonest or unprofessional conduct as  
3 defined by [~~regulation of the board~~] the Podiatry Act or  
4 regulations adopted pursuant to that act. "

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

7 "61-8-12. OFFENSES--PENALTIES.--Each of the following acts  
8 committed by any person constitutes a misdemeanor punishable  
9 upon conviction by a fine of not less than one hundred dollars  
10 (\$100) [~~nor~~] or more than [two hundred dollars (\$200)] ten  
11 thousand dollars (\$10,000) or by imprisonment not to exceed one  
12 year, or both:

13 A. practicing or attempting to practice podiatry  
14 without a current valid license issued by the board;

15 B. obtaining registration under the Podiatry Act by  
16 false or untrue statements to the board or by presenting a  
17 fraudulent diploma or license to the board;

18 C. swearing falsely or giving a false affidavit in any  
19 proceeding before the board;

20 D. advertising or using any designation, diploma or  
21 certificate tending to imply that one is a practitioner of  
22 podiatry, including the use of the words "chiroprapist",  
23 "podiatrist", "M Cp.", "D. S. C.", "D. P. M.", "foot specialist"  
24 "foot correctionist", "foot culturist", "foot practipedist",  
25 "foot [~~treatments~~] doctor" or words of similar import, unless

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1 one holds a license or is exempted under the provisions of the  
2 Podiatry Act; or

3 E. practicing podiatry during any period of time in  
4 which one's license has been revoked or suspended as provided in  
5 the Podiatry Act."

6 Section 13. Section 61-8-13 NMSA 1978 (being Laws 1977,  
7 Chapter 221, Section 13) is amended to read:

8 "61-8-13. UNPROFESSIONAL CONDUCT--EXCEPTIONS. --

9 A. [~~It shall be considered~~] Unprofessional conduct  
10 [~~under~~] pursuant to Subsection [~~J~~] H of Section [~~67-6-11 NMSA~~  
11 ~~1953~~] 61-8-11 NMSA 1978 for any podiatrist licensed [~~under~~]  
12 pursuant to the provisions of the Podiatry Act [~~to:~~

13 ~~(1) employ agents or procurers to secure patients~~  
14 ~~or solicit patients from the public;~~

15 ~~(2) advertise in newspapers, periodicals,~~  
16 ~~telephone directories, streetcars or buses, motion picture~~  
17 ~~theaters, circulars, booklets or on radio or television;~~

18 ~~(3) contrive to obtain newspaper, magazine, radio~~  
19 ~~or television comment in cases where the podiatrist is involved;~~

20 ~~(4) boast of, claim or promise any radical or~~  
21 ~~secret cures, treatments or remedies;~~

22 ~~(5) advertise his professional capacity as a~~  
23 ~~podiatrist or doctor in any shoe store or in or on any sign~~  
24 ~~relating to footwear;~~

25 ~~(6) use a fictitious name or designation to~~

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1 ~~represent himself as a podiatrist or as a group or association~~  
2 ~~of podiatrists except that of a professional corporation~~  
3 ~~organized under the laws of New Mexico or a registered~~  
4 ~~partnership registered with the state of New Mexico. Any~~  
5 ~~licensed podiatrist using a fictitious name for three years or~~  
6 ~~more prior to the passage of the Podiatry Act may continue to~~  
7 ~~conduct business under such name; or~~

8 ~~(7) practice podiatry in conjunction with any~~  
9 ~~barber shop, beauty parlor, bath house, shoe store, department~~  
10 ~~store or any similar business.] includes using any false or~~  
11 ~~misleading advertising or making any false or misleading~~  
12 ~~statement in communications with patients or potential patients~~  
13 ~~or using any misleading or deceptive title or designation in a~~  
14 ~~name or title of a podiatric practice~~

15 B. Nothing in Subsection A of this section shall be  
16 construed to prohibit the following acts:

17 (1) publishing in type of ordinary size and  
18 style, as opposed to bold or display type, the name, location,  
19 office hours and telephone number of any licensed practicing  
20 podiatrist in any telephone directory;

21 (2) publishing for a period of not more than ten  
22 consecutive days an announcement that the practitioner is  
23 opening a new office or practice, providing that ~~[such]~~ the  
24 announcement shall be published within thirty days after the  
25 opening and shall state only the practitioner's name, location,

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[bracketed material] = delete

1 office hours, telephone number, ~~his~~ occupation and the fact of  
2 the opening and shall be of a size not to exceed two inches in  
3 length and four inches in width and of a type size not heavier  
4 nor larger than twelve point gothic with a border not larger  
5 than four points;

6 (3) mailing one notice of the opening of a new  
7 practice or a notice of the assumption of an established  
8 practice consisting of a printed announcement ~~which~~ that shall  
9 be in an envelope and shall state only the practitioner's name,  
10 location, telephone number, office hours and the designation  
11 "podiatrist", "foot specialist" or "practice limited to care of  
12 feet" and the usual language announcing the opening of an  
13 office;

14 (4) maintaining exterior signs about the office  
15 of the practitioner, in keeping with the medical and dental  
16 community, giving his name, address and occupation. The letters  
17 shall be no larger than six inches in height, but neon lights,  
18 flashing lights or similar devices shall not be used; and

19 (5) conducting, in conjunction with a majority of  
20 the practicing podiatrists of the state or of a given city, a  
21 public educational program or informational campaign provided  
22 that ~~such~~ the program or campaign is approved and endorsed by  
23 the state society and done in the name of the society."

24 Section 14. Section 61-8-14 NMSA 1978 (being Laws 1977,  
25 Chapter 221, Section 14) is amended to read:

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1 "61-8-14. LIMITATION ON LICENSURE--TEMPORARY LICENSE. --

2 A. No license to practice podiatry shall be issued to  
3 a corporation, partnership or association; provided, however,  
4 that this subsection shall not prohibit licensed podiatrists  
5 from associating themselves as otherwise allowed by law in a  
6 professional corporation, professional limited liability  
7 company, partnership or association for the purpose of  
8 practicing podiatry.

9 B. In cases of emergency, the board may grant a  
10 temporary license to practice podiatry to persons meeting the  
11 requirements of Section [~~67-6-8 NMSA 1953~~] 61-8-8 or 61-8-9 NMSA  
12 1978, which license shall expire on the date of the next [~~state~~]  
13 board meeting at which licenses by examination [~~for licensure~~]  
14 are approved. No person may be issued more than one emergency  
15 temporary license.

16 C. To facilitate educational programs, the board may  
17 grant temporary licenses to podiatrists participating in such  
18 programs under terms and conditions to be established by  
19 regulation of the board."

20 Section 15. Section 61-8-15 NMSA 1978 (being Laws 1977,  
21 Chapter 221, Section 15) is repealed and a new Section 61-8-15  
22 NMSA 1978 is enacted to read:

23 "61-8-15. [NEW MATERIAL] PRIVILEGED COMMUNICATIONS. --  
24 Medical and other health care-related information concerning a  
25 patient obtained by a podiatrist or by an employee of a

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1     podiatrist during the course of examination, diagnosis or  
2     treatment; and advice, diagnosis, orders, prescriptions and  
3     other health care-related communications from a podiatrist or an  
4     employee of a podiatrist are confidential communications  
5     protected in courts of law and administrative proceedings by the  
6     physician-patient privilege. "

7             Section 16.   Section 61-8-16 NMSA 1978 (being Laws 1977,  
8     Chapter 221, Section 16) is amended to read:

9             "61-8-16.   POWER TO ENJOIN VIOLATIONS. -- Upon ~~[conviction of]~~  
10     a final determination that any person ~~[for violation of]~~ has  
11     violated any provision of the Podiatry Act, the board or any  
12     interested person may, in addition to ~~[the penalty herein]~~ other  
13     remedies provided in that act, petition the district court for  
14     an order restraining and enjoining such person from further or  
15     continued violation of the Podiatry Act, and the order may be  
16     enforced by contempt proceedings. "

17             Section 17.   Section 61-8-17 NMSA 1978 (being Laws 1979,  
18     Chapter 385, Section 2, as amended) is amended to read:

19             "61-8-17.   TERMINATION OF AGENCY LIFE--DELAYED REPEAL. --The  
20     board of podiatry is terminated on July 1, ~~[1997]~~ 2003 pursuant  
21     to the Sunset Act.   The board shall continue to operate  
22     according to the provisions of Chapter 61, Article 8 NMSA 1978  
23     until July 1, ~~[1998]~~ 2004.   Effective July 1, ~~[1998]~~ 2004,  
24     Article 8 of Chapter 61 NMSA 1978 is repealed. "

**State of New Mexico**  
**House of Representatives**

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2  
3 FORTY-THIRD LEGISLATURE  
4 FIRST SESSION, 1997  
5  
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8 March 11, 1997  
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10  
11 Mr. Speaker:  
12

13 Your CONSUMER AND PUBLIC AFFAIRS COMMITTEE, to  
14 whom has been referred

15 HOUSE BILL 926  
16

17 has had it under consideration and reports same with  
18 recommendation that it DO PASS, amended as follows:  
19

20 1. On page 1, line 25, strike "and".  
21

22 2. On page 2, before line 1, insert the following new  
23 subsection:

24 "B. "foot and ankle radiation technologist" means a  
25 person who takes x-rays of the foot and ankle under the

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FIRST SESSION, 1997

HCPAC/HB 926

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supervision of a podiatrist; and".

3. Reletter the succeeding subsection accordingly.

4. On page 2, lines 5 through 7, remove the brackets and line through "but does not include amputation of the foot or the personal administration of a general anesthetic".

5. On page 5, line 19, after "hold" insert "a".

6. On page 5, line 19, strike "meetings" and insert in lieu thereof "meeting".

7. On page 9, line 5, strike "and regulation".

8. On page 11, line 14, remove the brackets and line through "a" and strike "an accredited".

9. On page 11, line 15, after "medicine" strike the remainder of the line and on line 16, strike "the board" and insert in lieu thereof "accredited by the American podiatric medical association council on education".

10. On page 11, line 23, strike "approved" and insert in lieu thereof "accredited".

11. On page 13, line 17, remove the brackets and line through "a" and strike "an accredited".

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12. On page 13, line 18, strike "approved by the board" and insert in lieu thereof "accredited by the American podiatric medical association council on education".

13. On page 21, line 21, after "campaign" strike the remainder of the line, strike all of line 22 and strike line 23 up to the period.

14. On page 22, line 18, strike "to be".

15. On page 23, between lines 24 and 25, insert the following new section:

"Section 18. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 1997.".,

and thence referred to the BUSINESS AND INDUSTRY  
COMMI TTEE.

FORTY-THIRD LEGISLATURE  
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Respectfully submitted,

\_\_\_\_\_

Gary King, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 7 For 0 Against

Yes: 7

Excused: Rios, Vaughn, Vigil

Absent: None

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# State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

March 13, 1997

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6  
7 Mr. Speaker:

8 Your BUSINESS AND INDUSTRY COMMITTEE, to whom has  
9 been referred

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11 HOUSE BILL 926, as amended

12  
13 has had it under consideration and reports same with  
14 recommendation that it DO PASS, and thence referred to the  
15 APPROPRIATIONS AND FINANCE COMMITTEE.

16  
17 Respectfully submitted,

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22 \_\_\_\_\_  
23 Fred Luna, Chairman  
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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

HBI C/HB 926/aa

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 10 For 0 Against

Yes: 10

Excused: Alwin, Getty, Kissner

Absent: None

M \H0926

Underscored material = new  
[bracketed material] = delete