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HOUSE BILL 360

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

DANNY CARPENTER

AN ACT

RELATING TO LICENSURE; AMENDING THE PODIATRY ACT; 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;

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

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1 supervision of a podiatrist; and

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

11 C. ~~"podiatry" and "podiatrist" are synonymous with~~
12 ~~the words "chiroprody" and "chiroprodist"]~~ and surgeon within
13 the scope of his license. "

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

16 "61-8-3. LICENSE REQUIRED. -- Unless licensed as a
17 podiatrist [~~under~~] pursuant to the provisions of the Podiatry
18 Act or exempted from that act pursuant to Section 61-8-4 NMSA
19 1978, no person shall practice podiatry. "

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

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

24 A. gratuitous services rendered in cases of
25 emergency;

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1 B. the domestic administration of family remedies
2 not involving remuneration;

3 C. medical officers of the United States service
4 in the actual performance of their official duties [~~nor~~
5 ~~shall~~]. The provisions of the Podiatry Act [~~shall not~~] be so
6 construed as to be in conflict with existing laws regulating
7 the practice of the healing arts in this state;

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

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

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

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

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1 "61-8-5. BOARD CREATED-- MEMBERS-- QUALIFICATIONS-- TERMS--
2 VACANCIES-- REMOVAL. --

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

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

25 C. The governor may remove any member from the

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1 board for neglect of any duty required by law, for
2 incompetence, for improper or unprofessional conduct as
3 defined by board [~~regulation~~] rule or for any reason which
4 would justify the suspension or revocation of his license to
5 practice podiatry.

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

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

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

19 "61-8-6. BOARD ORGANIZATION--MEETINGS--COMPENSATION--
20 POWERS AND DUTIES.--

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

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1 B. The board shall hold a minimum of one
2 examination for licensure each year in the month of June or
3 July at [~~such~~] a place and at [~~such~~] a time [~~as~~] designated by
4 the board [~~may designate~~]. Notice of [~~such~~] the examination
5 shall be given to all applicants at least thirty days prior to
6 the date of [~~such~~] the examination. [~~The board shall adopt~~
7 ~~and file in accordance with the State Rules Act such~~
8 ~~regulations as it deems necessary to properly conduct its~~
9 ~~examinations and meetings.~~]

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

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

23 E. The board shall:
24 (1) administer and enforce the provisions of
25 the Podiatry Act;

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1 (2) adopt, publish and file, in accordance
2 with the Uniform Licensing Act and the State Rules Act, all
3 rules [~~and regulations~~] for the implementation and enforcement
4 of the provisions of the Podiatry Act;

5 (3) adopt and use a seal;

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

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

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

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

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

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

6 (10) adopt [~~regulations~~] and promulgate rules
7 setting standards of preliminary and professional
8 qualifications for the practice of podiatry;

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

16 ~~(12)]~~ (11) adopt [~~such regulations~~] and
17 promulgate rules and prepare and administer [~~such~~]
18 examinations for the licensure and regulation of podiatric
19 [~~hygienists~~] assistants as are necessary to protect the
20 public. The [~~regulations~~] rules shall include definitions and
21 limitations on the practice of podiatric [~~hygienists~~]
22 assistants; qualifications for applicants for licensure; [a]
23 an initial license fee in an amount not to exceed [~~ten dollars~~
24 ~~(\$10.00)~~] two hundred fifty dollars (\$250); and a renewal fee
25 not to exceed one hundred dollars (\$100) per year; provisions

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1 for the regulation of podiatric [~~hygienists~~] assistants and
2 the suspension or revocation of licenses. The qualifications
3 for an applicant for licensure shall [~~require that the~~
4 ~~applicant has successfully completed at least one year of~~
5 ~~academic education in an institution accredited by the council~~
6 ~~on podiatry education of the American podiatry association or~~
7 ~~holds a current license as a registered nurse or a licensed~~
8 ~~practical nurse; and~~] be determined by rule of the board;

9 (12) adopt rules and prepare and administer
10 examinations for licensure of foot and ankle radiation
11 technologists; and

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

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

16 "61-8-7. DISPOSITION OF FUNDS--PODIATRY FUND CREATED--
17 METHOD OF PAYMENTS--BONDS. --

- 18 A. There is created the "podiatry fund".
- 19 B. All funds received by the board and money
20 collected under the Podiatry Act shall be deposited with the
21 state treasurer, who shall place the same to the credit of the
22 podiatry fund.
- 23 C. All payments out of the podiatry fund shall be
24 made on vouchers issued and signed by the secretary-treasurer
25 of the board upon warrants drawn by the [~~department~~] secretary

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1 of finance and administration in accordance with the budget
2 approved by [~~the state budget division of~~] that department.

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

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

9 (2) the promotion of education and standards
10 of practice in the field of podiatry in New Mexico within the
11 budgetary limits.

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

20 [~~F. The secretary-treasurer and any employee who~~
21 ~~handles money or who certifies the receipt or disbursement of~~
22 ~~money received by the board shall, within thirty days after~~
23 ~~election or employment by the board, execute a bond in~~
24 ~~accordance with the provisions of the Surety Bond Act,~~
25 ~~conditioned on the faithful performance of the duties of the~~

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1 ~~office or position and on an accounting of all funds coming~~
2 ~~into his hands.~~

3 ~~G. The secretary-treasurer shall make, at the end~~
4 ~~of each fiscal year, an itemized report to the governor of all~~
5 ~~receipts and disbursements of the board for that fiscal year,~~
6 ~~together with a report of the records and information required~~
7 ~~by the Podiatry Act. A copy of the annual report to the~~
8 ~~governor shall be presented to the board at its annual meeting~~
9 ~~in June or July.]"~~

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

12 "61-8-8. QUALIFICATIONS FOR LICENSURE AS A PODIATRIST. --

13 A. Each applicant for licensure as a podiatrist
14 shall furnish evidence satisfactory to the board that the
15 applicant:

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

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

19 ~~[C.]~~ (3) has graduated and been awarded a
20 doctor of podiatric medicine degree from a college of
21 podiatric medicine ~~[approved and accredited by regulation of~~
22 ~~the board and in the event the applicant applies for licensure~~
23 ~~under the provisions for reciprocity, he shall have been~~
24 ~~awarded a doctor of podiatric medicine degree from a school or~~
25 ~~college of podiatric medicine approved and accredited by the~~

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1 ~~board which had a minimum course of study of four academic~~
2 ~~years of instruction or its equivalent leading to such degree]~~
3 accredited by the American podiatric medical association
4 council on education; and

5 (4) has completed, at a minimum, a one-year
6 residency program at a hospital accredited by the American
7 podiatric medical association council on education.

8 B. Each applicant shall file his application under
9 oath on forms supplied by the board and shall pay the required
10 fees.

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

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

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1 "61-8-9. LICENSURE BY [~~EXAMINATION--LICENSURE BY~~]

2 RECIPROCITY. --

3 [~~A. An applicant for licensure by examination~~
4 ~~shall meet the qualifications set forth in Section 67-6-8 NMSA~~
5 ~~1953, shall submit evidence to the board that he has~~
6 ~~successfully passed the examinations administered by the~~
7 ~~national board of podiatry examiners and furnish the board~~
8 ~~with an official transcript thereof, shall file his~~
9 ~~application under oath on forms supplied by the board and~~
10 ~~shall take such oral, clinical and written examinations as the~~
11 ~~board deems necessary. The examinations shall be in the~~
12 ~~English language, and the subjects covered by the examinations~~
13 ~~shall be determined by the board and taken from subjects~~
14 ~~taught in accredited colleges of podiatric medicine. The~~
15 ~~minimum requirements for licensing qualified applicants shall~~
16 ~~be an overall grade average of seventy-five percent and a~~
17 ~~grade of not less than sixty percent in any one subject.~~

18 B.] An applicant for licensure by reciprocity
19 shall meet the qualifications set forth in Section [~~67-6-8~~
20 ~~NMSA 1953~~] 61-8-8 NMSA 1978, shall file his application under
21 oath on forms supplied by the board [~~which~~] that conform to
22 board [~~regulations~~] rules on reciprocity, shall furnish proof
23 satisfactory to the board of his having been licensed by
24 examination in another state [~~which~~] that had qualifications
25 equal to or exceeding those [~~required in~~] of this state on the

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1 date of his original licensure and shall satisfy the board
2 that he holds the degree of doctor of podiatric medicine from
3 a college of podiatric medicine [~~approved by the board~~]
4 accredited by the American podiatric medical association
5 council on education. In addition, each applicant for
6 registration [~~under~~] pursuant to the provisions for
7 [~~reciprocal~~] licensure by reciprocity shall furnish the board
8 an affidavit from his state board showing current registration
9 and the fact that he has been licensed to practice podiatry
10 and that he has practiced podiatry for at least five
11 consecutive years ~~immediately~~ preceding the filing of his
12 application for reciprocal privilege. The applicant shall
13 [~~further furnish an endorsement from his state podiatry~~
14 ~~association or society that the applicant has been a member in~~
15 ~~good standing of such state organization and also of the~~
16 ~~American podiatry association for at least three years~~
17 ~~immediately preceding the filing of his application, and the~~
18 ~~applicant shall~~] also take and pass [~~such oral and clinical~~]
19 those supplemental examinations as the board deems necessary
20 [~~The provisions of this paragraph shall be acceptable by the~~
21 ~~board in lieu of the written portion of the examination.~~

22 C. ~~All applicants successfully passing the~~
23 ~~examinations shall be issued a license by the board upon the~~
24 ~~payment of the appropriate fee.~~

25 D. ~~The board shall adopt such regulations as it~~

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1 ~~deems necessary to conduct oral, clinical and written~~
2 ~~examinations and shall provide the necessary books, blanks and~~
3 ~~forms for the conduct of such examinations]~~ if required by
4 board rule. "

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

7 "61-8-10. LICENSE FEES-- LICENSURE UNDER PRIOR LAW -
8 RENEWAL. --

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

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

14 (a) an examination fee equal to the
15 cost of purchasing the examination, plus an administration fee
16 not to exceed fifty percent of the examination fee; and

17 (b) an application fee not to exceed
18 five hundred dollars (\$500);

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

22 ~~[(3) for the issuance of a certificate of~~
23 ~~license, a fee set by the board in an amount not to exceed~~
24 ~~twenty-five dollars (\$25.00)]~~;

25 (4) (3) for the annual renewal of license on

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1 or before January 1 of each year, a renewal fee set by the
2 board in an amount not to exceed [~~two hundred dollars (\$200)~~]
3 three hundred dollars (\$300);

4 [~~(5)~~] (4) for the late renewal after January
5 1 of each year, a late charge not to exceed fifty dollars
6 (\$50.00) per month or part thereof commencing on January 2;

7 [~~(6)~~] (5) in addition to the renewal fees and
8 late charges, the applicant for the renewal of a license shall
9 pay a reinstatement fee not to exceed two hundred fifty
10 dollars (\$250) for the first twelve months of delinquency and
11 a reinstatement fee of five hundred dollars (\$500) for a
12 license that has lapsed more than one year but not more than
13 three years; and

14 [~~(7)~~] (6) for the issuance of a temporary
15 license, a fee not to exceed one hundred dollars (\$100).

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

19 C. The provisions of Paragraphs [~~(4), (5) and (6)~~]
20 (3), (4) and (5) of Subsection A of this section shall not
21 apply to licensees who practice in the service of the United
22 States whose licenses shall be renewed upon application for
23 such renewal within three months after the termination of such
24 service.

25 D. Current renewal certificates issued by the

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1 board shall be displayed in the office of the licensee, and,
2 in the case of the suspension or revocation of a license, no
3 portion of a fee or penalty shall be returned.

4 E. Any person licensed as a podiatrist under the
5 provisions of any prior laws of New Mexico, whose license is
6 valid on the effective date of the Podiatry Act, shall be held
7 to be licensed under the provisions of the Podiatry Act and
8 shall be entitled to the [~~biennial~~] renewal of his current
9 license [~~as provided in that law~~]. "

10 Section 11. Section 61-8-10.1 NMSA 1978 (being Laws
11 1989, Chapter 185, Section 2) is amended to read:

12 "61-8-10.1. LICENSE RENEWAL--CONTINUING EDUCATION--
13 PENALTY FOR FAILURE TO RENEW.--

14 A. All licensees shall renew their licenses on or
15 before January 1 of each year. Upon application for renewal,
16 each licensee shall furnish evidence that he holds a
17 registration number with the taxation and revenue department
18 and has completed continuing education requirements as set
19 forth in Subsection B of this section.

20 B. As a condition of renewal, all applicants
21 [~~must~~] shall furnish the board with evidence of completion of
22 post-graduate study as required by board [~~regulation~~] rule.
23 Post-graduate study may be obtained from a college of
24 podiatric medicine accredited by the American podiatry
25 association, one of its constituent societies or affiliate

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1 organizations or other such courses approved by the board.
2 This requirement may only be waived for reasons of prolonged
3 illness or other incapacity.

4 C. The board may summarily suspend the license of
5 any podiatrist who fails to renew his license or submit proof
6 of completion of continuing education requirements within
7 sixty days of January 1 as provided in Subsection A of this
8 section. The board may reinstate licenses suspended upon
9 payment of all applicable late fees, delinquent renewal fees
10 and reinstatement fees."

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

13 "61-8-11. SUSPENSION, REVOCATION OR REFUSAL OF
14 LICENSE. --The board may refuse to issue or may suspend or
15 revoke any license [~~or take other action specified in Section~~
16 ~~61-1-3 NMSA 1978~~] in accordance with the provisions of the
17 Uniform Licensing Act for any one or more of the following
18 reasons:

19 A. making a false statement in any [~~affidavit~~
20 ~~required for~~] part of an application for licensure,
21 examination or registration [~~under~~] pursuant to the provisions
22 of the Podiatry Act;

23 B. conviction of a crime involving moral
24 turpitude, as shown by a certified copy of the record of the
25 court of conviction;

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1 C. the habitual indulgence in the use of
2 narcotics, [~~ardent spirits, stimulants~~] alcohol or other
3 substances [~~which~~] that impair intellect and judgment to an
4 extent as will, in the opinion of the board, incapacitate a
5 podiatrist from the proper performance of his professional
6 duties;

7 D. lending the use of one's name to an unlicensed
8 podiatrist;

9 E. selling, giving or prescribing any compound or
10 substance containing narcotic drugs or other controlled
11 substances for illegal purposes;

12 F. the willful [~~betrayal of a professional~~
13 ~~confidence~~] violation of a patient's right to confidentiality;

14 [~~G. soliciting the public in any manner prohibited~~
15 ~~by the Podiatry Act;~~

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

18 [~~I.~~] G. gross malpractice or incompetency as
19 defined by board [~~regulation~~] rule; or

20 [~~J.~~] H. any dishonest or unprofessional conduct
21 defined by [~~regulation of the board~~] the Podiatry Act or rules
22 adopted pursuant to that act."

23 Section 13. Section 61-8-12 NMSA 1978 (being Laws 1977,
24 Chapter 221, Section 12) is amended to read:

25 "61-8-12. OFFENSES--PENALTIES.--Each of the following

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1 acts committed by any person constitutes a misdemeanor
2 punishable upon conviction by a fine of not less than one
3 hundred dollars (\$100) [~~not~~] or more than [~~two hundred dollars~~
4 ~~(\$200)] ten thousand dollars (\$10,000) or by imprisonment not
5 to exceed one year, or both:~~

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

8 B. obtaining registration under the Podiatry Act
9 by false or untrue statements to the board or by presenting a
10 fraudulent diploma or license to the board;

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

13 D. advertising or using any designation, diploma
14 or certificate tending to imply that one is a practitioner of
15 podiatry, including the use of the words "chiroprapist",
16 "podiatrist", "M Cp. ", "D. S. C. ", "D. P. M. ", "foot specialist",
17 "foot correctionist", "foot culturist", "foot practipedist",
18 "foot [~~treatments~~] doctor" or words of similar import, unless
19 one holds a license or is exempted under the provisions of the
20 Podiatry Act; or

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

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

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1 "61-8-13. UNPROFESSIONAL CONDUCT--EXCEPTIONS. --

2 A. ~~[It shall be considered]~~ Unprofessional conduct
3 ~~[under]~~ pursuant to Subsection ~~[J]~~ H of Section ~~[67-6-11 NMSA~~
4 ~~1953]~~ 61-8-11 NMSA 1978 for any podiatrist licensed under the
5 Podiatry Act ~~[to:~~

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

8 (2) ~~advertise in newspapers, periodicals,~~
9 ~~telephone directories, streetcars or buses, motion picture~~
10 ~~theaters, circulars, booklets or on radio or television;~~

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

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

16 (5) ~~advertise his professional capacity as a~~
17 ~~podiatrist or doctor in any shoe store or in or on any sign~~
18 ~~relating to footwear;~~

19 (6) ~~use a fictitious name or designation to~~
20 ~~represent himself as a podiatrist or as a group or association~~
21 ~~of podiatrists except that of a professional corporation~~
22 ~~organized under the laws of New Mexico or a registered~~
23 ~~partnership registered with the state of New Mexico. Any~~
24 ~~licensed podiatrist using a fictitious name for three years or~~
25 ~~more prior to the passage of the Podiatry Act may continue to~~

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[bracketed material] = delete

1 ~~conduct business under such name; or~~

2 ~~(7) practice podiatry in conjunction with any~~
3 ~~barber shop, beauty parlor, bath house, shoe store, department~~
4 ~~store or any similar business] includes using any false or~~
5 ~~misleading advertising or making any false or misleading~~
6 ~~statement in communications with patients or potential~~
7 ~~patients or using any misleading or deceptive title or~~
8 ~~designation in a name or title of a podiatric practice.~~

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

11 (1) publishing in type of ordinary size and
12 style, as opposed to bold or display type, the name, location,
13 office hours and telephone number of any licensed practicing
14 podiatrist in any telephone directory;

15 (2) publishing for a period of not more than
16 ten consecutive days an announcement that the practitioner is
17 opening a new office or practice, providing that [such] the
18 announcement shall be published within thirty days after the
19 opening and shall state only the practitioner's name,
20 location, office hours, telephone number, [his] occupation and
21 the fact of the opening and shall be of a size not to exceed
22 two inches in length and four inches in width and of a type
23 size not heavier nor larger than twelve point gothic with a
24 border not larger than four points;

25 (3) mailing one notice of the opening of a

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1 new practice or a notice of the assumption of an established
2 practice consisting of a printed announcement which shall be
3 in an envelope and shall state only the practitioner's name,
4 location, telephone number, office hours and the designation
5 "podiatrist", "foot specialist" or "practice limited to care
6 of feet" and the usual language announcing the opening of an
7 office;

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

14 (5) conducting, in conjunction with a
15 majority of the practicing podiatrists of the state or of a
16 given city, a public educational program or informational
17 campaign [~~provided that such program or campaign is approved
18 and endorsed by the state society and done in the name of the
19 society~~]. "

20 Section 15. Section 61-8-14 NMSA 1978 (being Laws 1977,
21 Chapter 221, Section 14) is amended to read:

22 "61-8-14. LIMITATION ON LICENSURE- -TEMPORARY LICENSE. --

23 A. No license to practice podiatry shall be issued
24 to a corporation, partnership or association; provided,
25 however, that this subsection shall not prohibit licensed

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1 podiatrists from associating themselves as otherwise allowed
2 by law in a professional corporation, professional limited
3 liability company, partnership or association for the purpose
4 of practicing podiatry.

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

12 C. To facilitate educational programs, the board
13 may grant temporary licenses to podiatrists participating in
14 such programs under terms and conditions established by rule
15 of the board. "

16 Section 16. Section 61-8-15 NMSA 1978 (being Laws 1977,
17 Chapter 221, Section 15) is repealed and a new Section 61-8-15
18 NMSA 1978 is enacted to read:

19 "61-8-15. [NEW MATERIAL] PRIVILEGED COMMUNICATIONS. --
20 Medical and other health care-related information concerning a
21 patient obtained by a podiatrist or by an employee of a
22 podiatrist during the course of examination, diagnosis or
23 treatment; and advice, diagnosis, orders, prescriptions and
24 other health care-related ~~communications~~ from a podiatrist or
25 an employee of a podiatrist are confidential ~~communications~~

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1 protected in courts of law and administrative proceedings by
2 the physician-patient privilege. "

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

5 "61-8-16. POWER TO ENJOIN VIOLATIONS. -- Upon [~~conviction~~
6 ~~of any~~] final determination that a person [~~for violation of~~
7 ~~any~~] has violated a provision of the Podiatry Act, the board
8 or any interested person may, in addition to [~~the penalty~~
9 [~~herein~~] other remedies provided in that act, petition the
10 district court for an order restraining and enjoining such
11 person from further or continued violation of the Podiatry Act
12 [~~and the order may be enforced by contempt proceedings~~]. "

13 Section 18. EFFECTIVE DATE. -- The effective date of the
14 provisions of this act is July 1, 1998.

1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

3
4
5
6 February 5, 1998

7
8 Mr. Speaker:

9
10 Your CONSUMER AND PUBLIC AFFAIRS COMMITTEE, to
11 whom has been referred

12
13 HOUSE BILL 360

14
15 has had it under consideration and reports same with
16 recommendation that it DO PASS, amended as follows:

17 1. On page 3, line 5, strike all of the line after "Act",
18 on line 6 strike "construed as to be in" and insert in lieu
19 thereof "do not".

20
21 2. On page 3, line 7, after the semicolon insert "and".

22
23 3. On page 3, strike lines 14 through 17.

24
25 4. Reletter the succeeding subsection.

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

3 HCPAC/HB 360

Page 27

4 5. On page 5, line 3, strike "which" and insert in lieu
5 thereof "that".

6
7 6. On page 7, line 20, after "score" insert ", as defined
8 by board rule, ".

9
10 7. On page 9, line 2, strike the period and the rest of
11 the line and strike line 3 through "shall".

12 8. On page 9, strike line 8.

13
14 9. On page 9, between lines 8 and 9, insert:

15
16 "(12) determine by rule all qualifications and
17 requirements for applicants seeking licensure as podiatrists or
18 podiatric assistants;".

19 10. Renumber the succeeding paragraphs.

20
21 11. On page 9, line 10, after "for" insert "applicants
22 seeking" and strike "of" and insert in lieu thereof "as".

23
24 12. On page 10, line 2, strike all of the line after "by"
25 and insert in lieu thereof "the department of finance and
administration. ".

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1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

3 HCPAC/HB 360

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4 13. On page 12, line 23, strike the closing quotation
5 marks and between lines 23 and 24, insert:

6
7 "D. A podiatrist duly licensed in another state may,
8 on a temporary basis, consult, advise or cooperate in patient
9 treatment with a podiatrist licensed in New Mexico, subject to
10 rules adopted and promulgated by the board."

11 14. On page 13, line 22, strike the comma and insert in
12 lieu thereof "and".

13
14 15. On page 14, line 1, strike all of the line after
15 "licensure", strike lines 2, 3 and 4 and strike line 5 through
16 "education".

17 16. On page 14, line 18, strike "take" and insert in lieu
18 thereof "complete".

19
20 17. On page 19, line 20, after "conduct" insert "as".

21
22 18. On page 24, line 5, after "emergency" insert ", as
23 defined by board rule".

24
25 19. On page 24, line 6, strike "persons meeting" and
insert in lieu thereof "a person who meets".

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

HCPAC/HB 360

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20. On page 24, line 7, strike "Section" and "61-8-8 NMSA 1978," and insert in lieu thereof "Subsections A and B of Section 61-8-8 NMSA 1978."

21. On page 24, line 8, strike "which" and insert in lieu thereof "The temporary", and insert "automatically" after "shall".

22. On page 24, line 9, strike "licenses" and insert in lieu thereof "applications for licensure", and insert "or reciprocity" after "examination".

23. On page 24, line 11, remove the brackets and line through "temporary", strike "emergency" and insert "pursuant to this provision" after "license".

24. On page 24, line 12, after the comma insert "subject to conditions and terms set forth in board rules,".

25. On page 24, line 13, insert "a" after "grant", strike "licenses" and insert in lieu thereof "license" and strike "podiatrists" and insert in lieu thereof "practice podiatry to a person enrolled and".

26. On page 24, line 14, strike "programs" and insert in

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

HCPAC/HB 360

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In lieu thereof "program", strike the remainder of the line and
strike line 15 through "board".,

and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

Gary K. King, Chairman

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

HCPAC/HB 360

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The roll call vote was 9 For 0 Against

Yes: 9

Excused: Sandel

Absent: None

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1 **FORTY-THIRD LEGISLATURE**
2 **SECOND SESSION, 1998**

3
4 **February 11, 1998**

5
6
7 **Mr. Speaker:**

8
9 **Your JUDICIARY COMMITTEE, to whom has been referred**

10 **HOUSE BILL 360, as amended**

11
12 **has had it under consideration and reports same with**
13 **recommendation that it DO PASS.**

14
15 **Respectfully submitted,**

16
17
18
19 _____
20 **Thomas P. Foy, Chairman**

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1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

3 Page 33

4 Adopted _____ Not Adopted _____

5
6 (Chief Clerk)

(Chief Clerk)

7
8 Date _____

9
10 The roll call vote was 8 For 0 Against

11 Yes: 8

12 Excused: Alwin, Foy, Luna, Sanchez, Stewart

13 Absent: None

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

February 16, 1998

Mr. President:

Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

HOUSE BILL 360, as amended

has had it under consideration and reports same with recommendation that it DO PASS, and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

Shannon Robinson, Chairman

. 121539. 1

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Boitano, Ingle, Smith, Vernon

Absent: None

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

February 18, 1998

Mr. President:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 360, as amended

has had it under consideration and reports same with
recommendation that it DO PASS.

Respectfully submitted,

Fernando R. Macias, Chairman

. 121539. 1

FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Sanchez, Tsosie

Absent: None

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Underscored material = new
[bracketed material] = delete

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