

HOUSE COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 83

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

AN ACT

RELATING TO LICENSURE; REQUIRING THE NEW MEXICO MEDICAL BOARD TO ENFORCE AND ADMINISTER THE PODIATRY ACT; CHANGING THE TITLE OF "PODIATRIST" TO "PODIATRIC PHYSICIAN"; CONFORMING SECTIONS OF THE PODIATRY ACT; PROVIDING FOR THE NEW MEXICO MEDICAL BOARD FUND TO RECEIVE FUNDS COLLECTED UNDER THE PODIATRY ACT; CREATING THE PODIATRY ADVISORY COMMITTEE; REQUIRING THE PODIATRY ADVISORY COMMITTEE TO ADVISE THE NEW MEXICO MEDICAL BOARD; DEFINING DUTIES; CHANGING RECIPROCITY REQUIREMENTS; REQUIRING LICENSURE RENEWAL AFTER TWO YEARS; REMOVING THE TAXATION REGISTRATION NUMBER REQUIREMENT AS A CONDITION OF RENEWAL; ADDING A CIRCUMSTANCE FOR POSTGRADUATE EDUCATION WAIVER; REPEALING SECTIONS OF THE PODIATRY ACT.

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

SECTION 1. Section 61-6-5 NMSA 1978 (being Laws 1973,

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1 Chapter 361, Section 2, as amended) is amended to read:

2 "61-6-5. MEDICAL BOARD DUTIES AND POWERS.--The board
3 shall:

4 A. enforce and administer the provisions of the
5 Medical Practice Act, the Physician Assistant Act, the
6 Anesthesiologist Assistants Act, the Genetic Counseling Act,
7 the Impaired Health Care Provider Act, the Polysomnography
8 Practice Act, the Naturopathic Doctors' Practice Act, the
9 Podiatry Act and the Naprapathic Practice Act;

10 B. promulgate, in accordance with the State Rules
11 Act, all rules for the implementation and enforcement of the
12 provisions of the Medical Practice Act, the Physician Assistant
13 Act, the Anesthesiologist Assistants Act, the Genetic
14 Counseling Act, the Impaired Health Care Provider Act, the
15 Polysomnography Practice Act, the Naturopathic Doctors'
16 Practice Act, the Podiatry Act and the Naprapathic Practice
17 Act;

18 C. adopt and use a seal;

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

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

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

25 G. maintain records in which the name, address and

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1 license number of all licensees shall be recorded, together
 2 with a record of all license renewals, suspensions,
 3 revocations, probations, stipulations, censures, reprimands and
 4 fines;

5 H. discipline licensees or deny, review, suspend
 6 and revoke licenses to practice medicine and censure,
 7 reprimand, fine and place on probation and stipulation
 8 licensees and applicants in accordance with the Uniform
 9 Licensing Act for any cause stated in the law that the board is
 10 charged with enforcing;

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

13 J. have the authority to hire or contract with
 14 investigators to investigate possible violations of the Medical
 15 Practice Act;

16 K. have the authority to hire a competent attorney
 17 to give advice and counsel in regard to any matter connected
 18 with the duties of the board, to represent the board in any
 19 legal proceedings and to aid in the enforcement of the laws in
 20 relation to a health care profession or occupation over which
 21 the board has authority and to fix the compensation to be paid
 22 to such attorney; provided, however, that such attorney shall
 23 be compensated from the funds of the board;

24 L. establish continuing education requirements for
 25 licensed practitioners over which the board has authority;

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

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

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

9 P. have the authority to waive licensure fees for
10 the purpose of the recruitment and retention of health care
11 practitioners over which the board has authority."

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

14 "61-6-6. DEFINITIONS.--As used in the Medical Practice
15 Act:

16 A. "approved postgraduate training program for
17 physicians" means a program approved by the accreditation
18 council for graduate medical education, the American
19 osteopathic association or other board-approved program;

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

21 C. "collaboration" means the process by which a
22 licensed physician and a physician assistant jointly contribute
23 to the health care and medical treatment of patients; provided
24 that:

25 (1) each collaborator performs actions that

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1 the collaborator is licensed or otherwise authorized to
 2 perform; and

3 (2) collaboration shall not be construed to
 4 require the physical presence of the licensed physician at the
 5 time and place services are rendered;

6 D. "licensed physician" means a medical or
 7 osteopathic physician licensed under the Medical Practice Act
 8 to practice medicine in New Mexico;

9 E. "licensee" or "health care practitioner" means a
 10 medical physician, osteopathic physician, physician assistant,
 11 polysomnographic technologist, anesthesiologist assistant,
 12 naturopathic doctor, podiatric physician or naprapath licensed
 13 by the board to practice in New Mexico;

14 F. "medical college or school in good standing" for
 15 medical physicians means a board-approved medical college or
 16 school that has as high a standard as that required by the
 17 association of American medical colleges and the council on
 18 medical education of the American medical association; and for
 19 osteopathic physicians means a college of osteopathic medicine
 20 accredited by the commission of osteopathic college
 21 accreditation;

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

24 H. "physician assistant" means a health care
 25 practitioner who is licensed by the board to practice as a

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1 physician assistant and who provides services to patients with
2 the supervision of or in collaboration with a licensed
3 physician as set forth in rules promulgated by the board;

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

10 J. "the practice of medicine" consists of:

11 (1) advertising, holding out to the public or
12 representing in any manner that one is authorized to practice
13 medicine or to practice health care that is under the authority
14 of the board in this state;

15 (2) offering or undertaking to administer,
16 dispense or prescribe a drug or medicine for the use of another
17 person, except as authorized pursuant to a professional or
18 occupational licensing statute set forth in Chapter 61 NMSA
19 1978;

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

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

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1 (5) offering or undertaking to diagnose,
 2 correct or treat in any manner or by any means, methods,
 3 devices or instrumentalities any disease, illness, pain, wound,
 4 fracture, infirmity, deformity, defect or abnormal physical or
 5 mental condition of a person;

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

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

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

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

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

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1 L. "sexual contact" means touching the primary
2 genital area, groin, anus, buttocks or breast of a patient or
3 allowing a patient to touch another's primary genital area,
4 groin, anus, buttocks or breast in a manner that is commonly
5 recognized as outside the scope of acceptable medical or health
6 care practice;

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

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

15 SECTION 3. Section 61-6-15 NMSA 1978 (being Laws 1969,
16 Chapter 46, Section 6, as amended) is amended to read:

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

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

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1 applicant for or holder of the license has been guilty of
 2 unprofessional or dishonorable conduct. The board may also
 3 refuse to license an applicant who is unable to practice as a
 4 physician, practice as a physician assistant, an
 5 anesthesiologist assistant, a genetic counselor, a naturopathic
 6 practitioner, [~~or~~] a naprapathic practitioner or a podiatric
 7 physician or practice polysomnography, pursuant to Section
 8 61-7-3 NMSA 1978. All proceedings shall be as required by the
 9 Uniform Licensing Act or the Impaired Health Care Provider Act.

10 B. The board may, in its discretion and for good
 11 cause shown, place the licensee on probation on the terms and
 12 conditions it deems proper for protection of the public, for
 13 the purpose of rehabilitation of the probationer or both. Upon
 14 expiration of the term of probation, if a term is set, further
 15 proceedings may be abated by the board if the holder of the
 16 license furnishes the board with evidence that the licensee is
 17 competent to practice, is of good moral character and has
 18 complied with the terms of probation.

19 C. If evidence fails to establish to the
 20 satisfaction of the board that the licensee is competent and is
 21 of good moral character or if evidence shows that the licensee
 22 has not complied with the terms of probation, the board may
 23 revoke or suspend the license. If a license to practice in
 24 this state is suspended, the holder of the license may not
 25 practice during the term of suspension. A person whose license

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

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

9 (1) procuring, aiding or abetting an illegal
10 procedure;

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

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

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

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

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

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

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

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

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

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

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

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

24 (14) discipline imposed on a licensee by
25 another licensing jurisdiction, including denial, probation,

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1 suspension or revocation, based upon acts by the licensee
2 similar to acts described in this section. A certified copy of
3 the record of disciplinary action or sanction taken by another
4 jurisdiction is conclusive evidence of the action;

5 (15) the use of a false, fraudulent or
6 deceptive statement in a document connected with the practice
7 of a licensee;

8 (16) fee splitting;

9 (17) the prescribing, administering or
10 dispensing of narcotic, stimulant or hypnotic drugs for other
11 than accepted therapeutic purposes;

12 (18) conduct likely to deceive, defraud or
13 harm the public;

14 (19) repeated similar negligent acts or a
15 pattern of conduct otherwise described in this section or in
16 violation of a board rule;

17 (20) employing abusive billing practices;

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

20 (a) another licensing jurisdiction;

21 (b) a peer review body;

22 (c) a health care entity;

23 (d) a professional or medical society or
24 association;

25 (e) a governmental agency;

1 (f) a law enforcement agency; or

2 (g) a court for acts or conduct similar
3 to acts or conduct that would constitute grounds for action as
4 defined in this section;

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

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

17 (24) abandonment of patients;

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

20 (26) injudicious prescribing, administering or
21 dispensing of a drug or medicine;

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

25 (28) sexual contact with a patient or person

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1 who has authority to make medical decisions for a patient,
2 other than the spouse of the licensee;

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

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

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

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

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

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

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1 (35) undertreatment of pain as provided by
2 board rule;

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

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

10 (38) willfully or negligently divulging
11 privileged information or a professional secret; or

12 (39) the use of conversion therapy on a minor.

13 E. As used in this section:

14 (1) "conversion therapy" means any practice or
15 treatment that seeks to change a person's sexual orientation or
16 gender identity, including any effort to change behaviors or
17 gender expressions or to eliminate or reduce sexual or romantic
18 attractions or feelings toward persons of the same sex.

19 "Conversion therapy" does not mean:

20 (a) counseling or mental health services
21 that provide acceptance, support and understanding of a person
22 without seeking to change gender identity or sexual
23 orientation; or

24 (b) mental health services that
25 facilitate a person's coping, social support, sexual

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1 orientation or gender identity exploration and development,
2 including an intervention to prevent or address unlawful
3 conduct or unsafe sexual practices, without seeking to change
4 gender identity or sexual orientation;

5 (2) "fee splitting" includes offering,
6 delivering, receiving or accepting any unearned rebate,
7 refunds, commission preference, patronage dividend, discount or
8 other unearned consideration, whether in the form of money or
9 otherwise, as compensation or inducement for referring
10 patients, clients or customers to a person, irrespective of any
11 membership, proprietary interest or co-ownership in or with a
12 person to whom the patients, clients or customers are referred;

13 (3) "gender identity" means a person's self-
14 perception, or perception of that person by another, of the
15 person's identity as a male or female based upon the person's
16 appearance, behavior or physical characteristics that are in
17 accord with or opposed to the person's physical anatomy,
18 chromosomal sex or sex at birth;

19 (4) "minor" means a person under eighteen
20 years of age; and

21 (5) "sexual orientation" means
22 heterosexuality, homosexuality or bisexuality, whether actual
23 or perceived.

24 F. Licensees whose licenses are in a probationary
25 status shall pay reasonable expenses for maintaining

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1 probationary status, including laboratory costs when laboratory
 2 testing of biological fluids [~~are~~] is included as a condition
 3 of probation."

4 SECTION 4. Section 61-6-31 NMSA 1978 (being Laws 1989,
 5 Chapter 269, Section 27, as amended) is amended to read:

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

8 A. [~~There is created~~] The "New Mexico medical board
 9 fund" is created.

10 B. All funds received by the board and money
 11 collected under the Medical Practice Act, the Physician
 12 Assistant Act, the Anesthesiologist Assistants Act, the Genetic
 13 Counseling Act, the Polysomnography Practice Act, the Impaired
 14 Health Care Provider Act, the Naturopathic Doctors' Practice
 15 Act, the Podiatry Act and the Naprapathic Practice Act shall be
 16 deposited with the state treasurer, who shall place the same to
 17 the credit of the New Mexico medical board fund.

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

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

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1 (1) the performance of the provisions of the
2 Medical Practice Act, the Physician Assistant Act, the
3 Anesthesiologist Assistants Act, the Genetic Counseling Act,
4 the Polysomnography Practice Act, the Impaired Health Care
5 Provider Act, the Naturopathic Doctors' Practice Act, the
6 Podiatry Act and the Naprapathic Practice Act and the duties
7 and powers imposed by those acts;

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

10 (3) efforts to recruit and retain medical and
11 osteopathic physicians for practice in New Mexico.

12 E. All funds that may have accumulated to the
13 credit of the board under any previous law shall be transferred
14 to the New Mexico medical board fund and shall continue to be
15 available for use by the board in accordance with the
16 provisions of the Medical Practice Act, the Physician Assistant
17 Act, the Anesthesiologist Assistants Act, the Genetic
18 Counseling Act, the Polysomnography Practice Act, the Impaired
19 Health Care Provider Act, the Naturopathic Doctors' Practice
20 Act, the Podiatry Act and the Naprapathic Practice Act. All
21 money unused at the end of the fiscal year shall not revert,
22 but shall remain in the fund for use in accordance with the
23 provisions of the Medical Practice Act, the Physician Assistant
24 Act, the Anesthesiologist Assistants Act, the Genetic
25 Counseling Act, the Polysomnography Practice Act, the Impaired

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1 Health Care Provider Act, the Naturopathic Doctors' Practice
 2 Act, the Podiatry Act and the Naprapathic Practice Act."

3 SECTION 5. Section 61-8-2 NMSA 1978 (being Laws 1977,
 4 Chapter 221, Section 2, as amended) is amended to read:

5 "61-8-2. DEFINITIONS.--As used in the Podiatry Act:

6 A. "board" means the [~~board of podiatry~~] New Mexico
 7 medical board;

8 B. "committee" means the podiatry advisory
 9 committee;

10 [~~B.~~] C. "foot and ankle radiation technologist"
 11 means a person who takes x-rays of the foot and ankle under the
 12 supervision of a [~~podiatrist~~] podiatric physician; [~~and~~]

13 D. "podiatric physician" means a podiatric
 14 physician licensed under the Podiatry Act to practice podiatry
 15 in New Mexico; and

16 [~~E.~~] E. "practice of podiatry" means engaging in
 17 that primary health care profession, the members of which
 18 examine, diagnose, treat and prevent by medical, surgical and
 19 biomechanical means ailments affecting the human foot and ankle
 20 and the structures governing their functions, but does not
 21 include amputation of the foot or the personal administration
 22 of a general anesthetic. A [~~podiatrist~~] podiatric physician,
 23 pursuant to the laws of this state, is defined as a physician
 24 and surgeon within the scope of [~~his~~] the podiatric physician
 25 license."

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1 SECTION 6. Section 61-8-3 NMSA 1978 (being Laws 1977,
2 Chapter 221, Section 3, as amended) is amended to read:

3 "61-8-3. LICENSE REQUIRED.--Unless licensed as a
4 [~~podiatrist~~] podiatric physician pursuant to the provisions of
5 the Podiatry Act or exempted from that act pursuant to Section
6 61-8-4 NMSA 1978, no person shall practice podiatry."

7 SECTION 7. Section 61-8-5 NMSA 1978 (being Laws 1977,
8 Chapter 221, Section 5, as amended) is amended to read:

9 "61-8-5. [~~BOARD~~] PODIATRY ADVISORY COMMITTEE CREATED--
10 MEMBERS--QUALIFICATIONS--TERMS--VACANCIES [~~REMOVAL~~].--

11 A. [~~There is created a "board of podiatry". The~~
12 ~~board shall be administratively attached to the regulation and~~
13 ~~licensing department.~~] The "podiatry advisory committee" is
14 created to advise the board regarding licensure of podiatric
15 physicians and efforts to recruit and retain podiatric
16 physicians for practice in this state. The [~~board~~] committee
17 shall consist of [~~five~~] three members, [~~three of whom~~] one
18 member who shall be the executive director of the New Mexico
19 podiatric medical association serving as an ex-officio member
20 and two members who shall be [~~podiatrists~~] podiatric physicians
21 licensed to practice in New Mexico who have been actively
22 engaged in the practice of podiatry for at least three
23 consecutive years immediately prior to their appointments [~~and~~
24 two members who shall represent the public and who shall not
25 have been licensed as podiatrists, nor shall the public members

1 ~~have any significant financial interest, whether direct or~~
 2 ~~indirect, in the occupation regulated].~~

3 B. Members of the ~~[board required to be licensed~~
 4 ~~podiatrists] committee~~ shall be appointed by the ~~[governor]~~
 5 board ~~[members shall be appointed for staggered terms of five~~
 6 ~~years each, made in a manner that the terms of not more than~~
 7 ~~two board members end on December 31 of each year commencing~~
 8 ~~with 1978. Board]~~ from a list of names submitted to the board
 9 by the New Mexico podiatric medical association or its
 10 authorized governing body or council. The list shall be
 11 submitted to the board within thirty days of a vacancy and
 12 shall contain at least three qualified podiatric physicians for
 13 each member to be appointed. Member vacancies shall be filled
 14 in the same manner. Committee members shall serve until their
 15 successors have been appointed and qualified. [A vacancy shall
 16 be filled for the unexpired term by appointment by the
 17 governor.

18 C. ~~The governor may remove a member from the board~~
 19 ~~for neglect of a duty required by law, for incompetence, for~~
 20 ~~improper or unprofessional conduct as defined by board rule or~~
 21 ~~for any reason that would justify the suspension or revocation~~
 22 ~~of his license to practice podiatry.~~

23 D. ~~A board member shall not serve more than two~~
 24 ~~consecutive full terms, and a member failing to attend, after~~
 25 ~~proper notice, three consecutive meetings shall automatically~~

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1 ~~be removed as a board member unless excused for reasons set~~
2 ~~forth in board rules.~~

3 ~~E. In the event of a vacancy, the secretary of the~~
4 ~~board shall immediately notify the governor and the board~~
5 ~~members of the vacancy, the reason for its occurrence and the~~
6 ~~action taken by the board, so as to expedite the appointment of~~
7 ~~a new board member.]"~~

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

10 "61-8-6. BOARD AND COMMITTEE ORGANIZATION--MEETINGS--
11 COMPENSATION--POWERS AND DUTIES.--

12 A. The [~~board~~] committee shall hold [~~a regular~~
13 ~~meeting at least annually and shall elect annually a chair,~~
14 ~~vice chair and secretary-treasurer from its membership, each of~~
15 ~~whom shall serve until a successor is selected and qualified.~~

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

21 ~~C. Special meetings may be called by the chair and~~
22 ~~shall be called upon the written request of any three board~~
23 ~~members. Notice of all meetings shall be made in conformance~~
24 ~~with the Open Meetings Act] meetings in a frequency necessary
25 to conduct business and shall meet at the request of the board.~~

1 Meetings of the committee shall be subject to the Open Meetings
 2 Act.

3 ~~[D.]~~ B. Members of the ~~[board may be reimbursed]~~
 4 committee are entitled to reimbursement as provided in the Per
 5 Diem and Mileage Act, but shall receive no other compensation,
 6 perquisite or allowance.

7 ~~[E.]~~ C. The board, with the advice of the
 8 committee, shall:

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

11 (2) promulgate, in accordance with the State
 12 Rules Act, all rules for the implementation and enforcement of
 13 the provisions of the Podiatry Act;

14 (3) adopt and use a seal;

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

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

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

25 ~~(7) certify as passing each applicant who~~

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1 ~~obtains a passing score, as defined by board rule, on~~
2 ~~examinations administered or approved by the board;~~

3 ~~(8)}~~ (6) keep records of [~~registration in~~
4 ~~which~~] the name, address and license number of licensed
5 [~~podiatrists are recorded~~] podiatric physicians together with a
6 record of license renewals, suspensions and revocations;

7 ~~(9)}~~ (7) grant, deny, renew, suspend or
8 revoke licenses to practice podiatry or take other actions
9 provided in Section 61-1-3 NMSA 1978 in accordance with the
10 provisions of the Uniform Licensing Act for any cause stated in
11 the Podiatry Act;

12 ~~(10)}~~ (8) promulgate rules setting standards
13 of preliminary and professional qualifications for the practice
14 of podiatry;

15 ~~(11)}~~ (9) promulgate rules [~~and prepare and~~
16 ~~administer examinations~~] for the examination, licensure and
17 regulation of podiatric assistants [~~as are necessary to protect~~
18 ~~the public~~]. The rules shall include definitions and
19 limitations on the practice of podiatric assistants,
20 qualifications for applicants for licensure, an initial license
21 fee in an amount not to exceed two hundred fifty dollars (\$250)
22 and a renewal fee not to exceed one hundred dollars (\$100) per
23 year, provisions for the regulation of podiatric assistants and
24 provisions for the suspension or revocation of licenses;

25 ~~(12)}~~ (10) determine by rule all

1 qualifications and requirements for applicants seeking
 2 licensure as [~~podiatrists~~] podiatric physicians or podiatric
 3 assistants; [~~and~~
 4 ~~(13)] (11) promulgate rules [~~and prepare and~~
 5 ~~administer examinations for applicants seeking]~~ for the
 6 examination and licensure as foot and ankle radiation
 7 technologists, which shall include definitions and limitations
 8 on the practice of foot and ankle radiation technologists,
 9 qualifications for applicants for licensure, an initial license
 10 fee in an amount not to exceed two hundred fifty dollars (\$250)
 11 and a renewal fee not to exceed one hundred dollars (\$100) per
 12 year, provisions for the regulation of foot and ankle radiation
 13 technologists and provisions for the suspension or revocation
 14 of licenses; and~~

15 (12) require fingerprints, or other biometric
 16 identification, and other information necessary for a state and
 17 national criminal background check as a condition for
 18 licensure."

19 SECTION 9. Section 61-8-8 NMSA 1978 (being Laws 1977,
 20 Chapter 221, Section 8, as amended) is amended to read:

21 "61-8-8. QUALIFICATIONS FOR LICENSURE AS A [~~PODIATRIST]~~
 22 PODIATRIC PHYSICIAN.--

23 A. Each applicant for licensure as a [~~podiatrist]~~
 24 podiatric physician shall furnish evidence satisfactory to the
 25 board that the applicant:

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1 (1) has reached the age of majority;

2 (2) has graduated and been awarded a doctor of
3 podiatric medicine degree from a college of podiatric medicine
4 accredited by the American podiatric medical association
5 council on podiatric medical education; and

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

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

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

24 D. A [~~podiatrist~~] podiatric physician licensed in
25 another state may, on a temporary basis, consult, advise or

1 cooperate in patient treatment with a [~~podiatrist~~] podiatric
 2 physician licensed in New Mexico, subject to rules promulgated
 3 by the board."

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

6 "61-8-9. EXPEDITED LICENSURE BY RECIPROCITY.--

7 A. An applicant for expedited licensure by
 8 reciprocity shall meet the qualifications set forth in Section
 9 61-8-8 NMSA 1978, shall file an application under oath on forms
 10 supplied by the board that conform to board rules on
 11 reciprocity and furnish proof satisfactory to the board of
 12 having been licensed by national examination in another
 13 licensing jurisdiction. In addition, each applicant for
 14 licensure by reciprocity shall [~~furnish the board~~]:

15 (1) furnish the board an affidavit from the
 16 applicant's state board showing a valid, unrestricted license
 17 and the fact that the applicant has been licensed to practice
 18 podiatry and has practiced podiatry for at least [~~five~~] three
 19 consecutive years immediately preceding the filing of the
 20 application for reciprocal licensure and is in good standing
 21 with the other licensing jurisdiction; and

22 (2) pay required fees.

23 B. The board shall, as soon as practicable but no
 24 later than thirty days after an out-of-state licensee files an
 25 application for licensure by reciprocity, process the

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1 application and issue the license in accordance with Section
2 61-1-31.1 NMSA 1978.

3 C. The board shall determine the states and
4 territories of the United States and the District of Columbia
5 from which it will not accept an applicant for expedited
6 licensure and the foreign countries from which it will accept
7 an applicant for expedited licensure. The board shall post the
8 list of disapproved and approved licensing jurisdictions on its
9 website. The list of disapproved licensing jurisdictions shall
10 include the specific reasons for disapproval. The lists shall
11 be reviewed annually to determine if amendments to the rule are
12 warranted."

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

15 "61-8-10. LICENSE FEES--LICENSURE UNDER PRIOR LAW--
16 RENEWAL.--

17 A. Except as provided in Section 61-1-34 NMSA 1978,
18 an applicant for licensure as a [~~podiatrist~~] podiatric
19 physician shall pay the following fees:

20 (1) for licensure by examination:

21 (a) an examination fee equal to the cost
22 of purchasing the examination, plus an administration fee not
23 to exceed fifty percent of the examination fee; and

24 (b) an application fee not to exceed
25 [~~five hundred dollars (\$500)~~] six hundred dollars (\$600);

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1 (2) for licensure on the basis of reciprocity,
 2 a fee set by the board in an amount not to exceed six hundred
 3 dollars (\$600);

4 (3) for the [~~annual~~] biennial renewal of
 5 license on or before January 1 of [~~each~~] the renewal year, a
 6 renewal fee set by the board in an amount not to exceed [~~three~~
 7 ~~hundred dollars (\$300)] six hundred dollars (\$600);~~

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

12 (5) in addition to the renewal fees and late
 13 charges, the applicant for the renewal of a license shall pay a
 14 reinstatement fee not to exceed two hundred fifty dollars
 15 (\$250) for the first twelve months of delinquency and a
 16 reinstatement fee of five hundred dollars (\$500) for a license
 17 that has lapsed more than one year but not more than three
 18 years; and

19 (6) for the issuance of a temporary license, a
 20 fee not to exceed one hundred dollars (\$100).

21 B. If any licensee permits the licensee's license
 22 to lapse for a period of three full years, the license shall
 23 automatically be canceled and shall not be reinstated.

24 C. The provisions of Paragraphs (3), (4) and (5) of
 25 Subsection A of this section shall not apply to licensees who

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1 practice in the service of the United States whose licenses
2 shall be renewed upon application for renewal within three
3 months after the termination of service.

4 D. Current renewal certificates issued by the board
5 shall be displayed in the office of the licensee, and, in the
6 case of the suspension or revocation of a license, no portion
7 of a fee or penalty shall be returned."

8 SECTION 12. Section 61-8-10.1 NMSA 1978 (being Laws 1989,
9 Chapter 185, Section 2, as amended) is amended to read:

10 "61-8-10.1. LICENSE RENEWAL--CONTINUING EDUCATION--
11 PENALTY FOR FAILURE TO RENEW.--

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

19 B. As a condition of renewal, all applicants shall
20 furnish the board with evidence of completion of postgraduate
21 study as required by board rule. Postgraduate study may be
22 obtained from a college of podiatric medicine accredited by the
23 American [~~podiatry~~] podiatric medical association, one of its
24 constituent societies or affiliate organizations or other
25 [~~such~~] courses approved by the board. This requirement may

1 only be waived for reasons of prolonged illness or other
 2 incapacity or during a public health emergency.

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

11 SECTION 13. Section 61-8-11 NMSA 1978 (being Laws 1977,
 12 Chapter 221, Section 11, as amended) is amended to read:

13 "61-8-11. SUSPENSION, REVOCATION OR REFUSAL OF LICENSE.--
 14 The board may refuse to issue or may suspend or revoke [~~any~~] a
 15 license in accordance with the provisions of the Uniform
 16 Licensing Act for any one or more of the following reasons:

17 A. making a false statement in any part of an
 18 application for licensure, examination or registration
 19 pursuant to the provisions of the Podiatry Act;

20 B. [~~conviction of a crime involving moral~~
 21 ~~turpitude, as shown by a certified copy of the record of the~~
 22 ~~court of conviction~~] having a disqualifying criminal conviction
 23 as determined by the board. As used in this subsection,
 24 "disqualifying criminal conviction" means a conviction for a
 25 crime that is related to the profession of podiatry;

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

6 D. lending the use of one's name to an unlicensed
7 [~~podiatrist~~] podiatric physician;

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

11 F. the willful violation of a patient's right to
12 confidentiality;

13 G. gross malpractice or incompetency as defined by
14 board rule; or

15 H. [~~any~~] dishonest or unprofessional conduct as
16 defined by the Podiatry Act or rules adopted pursuant to that
17 act."

18 SECTION 14. Section 61-8-12 NMSA 1978 (being Laws 1977,
19 Chapter 221, Section 12, as amended) is amended to read:

20 "61-8-12. OFFENSES--PENALTIES.--Each of the following
21 acts committed by any person constitutes a misdemeanor
22 punishable upon conviction by a fine of not less than one
23 hundred dollars (\$100) or more than ten thousand dollars
24 (\$10,000) or by imprisonment not to exceed one year, or both:

25 A. practicing or attempting to practice podiatry

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1 without a current valid license issued by the board;

2 B. obtaining registration under the Podiatry Act by
 3 false or untrue statements to the board or by presenting a
 4 fraudulent diploma or license to the board;

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

7 D. advertising or using any designation, diploma or
 8 certificate tending to imply that one is a practitioner of
 9 podiatry, including the use of the words "chiropracist",
 10 "podiatrist", "podiatric physician", "M.Cp.", "D.S.C.",
 11 "D.P.M.", "foot specialist", "foot correctionist", "foot
 12 culturist", "foot practipedist", "foot doctor" or words of
 13 similar import, unless one holds a license or is exempted under
 14 the provisions of the Podiatry Act; or

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

18 SECTION 15. Section 61-8-13 NMSA 1978 (being Laws 1977,
 19 Chapter 221, Section 13, as amended) is amended to read:

20 "61-8-13. UNPROFESSIONAL CONDUCT [~~EXCEPTIONS~~].--[~~A.~~]
 21 Unprofessional conduct pursuant to Subsection H of Section
 22 61-8-11 NMSA 1978 for [~~any podiatrist~~] a podiatric physician
 23 licensed under the Podiatry Act includes using [~~any~~] false or
 24 misleading advertising or making [~~any~~] a false or misleading
 25 statement in communications with patients or potential patients

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1 or using [any] a misleading or deceptive title or designation
2 in a name or title of a podiatric practice.

3 ~~[B. Nothing in Subsection A of this section shall~~
4 ~~be construed to prohibit the following acts:~~

5 ~~(1) publishing in type of ordinary size and~~
6 ~~style, as opposed to bold or display type, the name, location,~~
7 ~~office hours and telephone number of any licensed practicing~~
8 ~~podiatrist in any telephone directory;~~

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

19 ~~(3) mailing one notice of the opening of a new~~
20 ~~practice or a notice of the assumption of an established~~
21 ~~practice consisting of a printed announcement, which shall be~~
22 ~~in an envelope and shall state only the practitioner's name,~~
23 ~~location, telephone number, office hours and the designation~~
24 ~~"podiatrist", "foot specialist" or "practice limited to care of~~
25 ~~feet" and the usual language announcing the opening of an~~

1 office;

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

8 ~~(5) conducting, in conjunction with a majority~~
 9 ~~of the practicing podiatrists of the state or of a given city,~~
 10 ~~a public educational program or informational campaign.]"~~

11 SECTION 16. Section 61-8-14 NMSA 1978 (being Laws 1977,
 12 Chapter 221, Section 14, as amended) is amended to read:

13 "61-8-14. LIMITATION ON LICENSURE--TEMPORARY LICENSE.--

14 A. No license to practice podiatry shall be issued
 15 to a corporation, partnership or association; provided,
 16 however, that this subsection shall not prohibit licensed
 17 ~~[podiatrists]~~ podiatric physicians from associating themselves
 18 as otherwise allowed by law in a professional corporation,
 19 professional limited liability company, partnership or
 20 association for the purpose of practicing podiatry.

21 B. In cases of emergency, as defined by board rule,
 22 the board may grant a temporary license to practice podiatry to
 23 a person who meets the requirements of Subsections A and B of
 24 Section 61-8-8 NMSA 1978. The temporary license shall
 25 automatically expire on the date of the next board meeting at

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1 which applications for licensure by examination or reciprocity
2 are approved. No person may be issued more than one temporary
3 license pursuant to this provision.

4 C. To facilitate educational programs, subject to
5 conditions and terms set forth in board rules, the board may
6 grant a temporary license to practice podiatry to a person
7 enrolled and participating in such program."

8 SECTION 17. Section 61-8-15 NMSA 1978 (being Laws 1998,
9 Chapter 24, Section 16) is amended to read:

10 "61-8-15. PRIVILEGED COMMUNICATIONS.--Medical and other
11 health care-related information concerning a patient obtained
12 by a [~~podiatrist~~] podiatric physician or by an employee of a
13 [~~podiatrist~~] podiatric physician during the course of
14 examination, diagnosis or treatment and advice, diagnosis,
15 orders, prescriptions and other health care-related
16 communications from a [~~podiatrist~~] podiatric physician or an
17 employee of a [~~podiatrist~~] podiatric physician are confidential
18 communications protected in courts of law and administrative
19 proceedings by the physician-patient privilege."

20 SECTION 18. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
21 PERSONNEL AND PROPERTY.--On July 1, 2023:

22 A. all functions, personnel, records, equipment,
23 supplies and other property of the board of podiatry shall be
24 transferred to the podiatry advisory committee; and

25 B. all money and appropriations of the board of

1 podiatry shall be transferred to the New Mexico medical board
2 fund.

3 **SECTION 19. REPEAL.**--Sections 61-8-7 and 61-8-17 NMSA
4 1978 (being Laws 1977, Chapter 221, Section 7 and Laws 1979,
5 Chapter 385, Section 2, as amended) are repealed.

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