

1 SENATE HEALTH AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
2 SENATE BILL 117

3 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

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10 AN ACT

11 RELATING TO LICENSURE; ENACTING THE PRESCRIBING PSYCHOLOGIST
12 PRACTICE ACT; CREATING THE PRESCRIBING PSYCHOLOGIST ADVISORY
13 COUNCIL; REQUIRING THE NEW MEXICO MEDICAL BOARD TO ADMINISTER
14 THE PRESCRIBING PSYCHOLOGIST PRACTICE ACT; AMENDING THE
15 PROFESSIONAL PSYCHOLOGIST ACT TO REMOVE PRESCRIBING
16 PSYCHOLOGISTS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE
17 NMSA 1978.

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

20 SECTION 1. A new section of Chapter 61 NMSA 1978 is
21 enacted to read:

22 "[NEW MATERIAL] SHORT TITLE.--Sections 1 through 8 of this
23 act may be cited as the "Prescribing Psychologist Practice
24 Act"."

25 SECTION 2. A new section of Chapter 61 NMSA 1978 is
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1 enacted to read:

2 "[~~NEW MATERIAL~~] DEFINITIONS.--As used in the Prescribing
3 Psychologist Practice Act:

4 A. "board" means the New Mexico medical board;

5 B. "board-approved prescribing psychologist
6 supervisor" means a licensed prescribing psychologist who,
7 after five years of practice after being licensed without
8 condition, has applied to the board to supervise prescribing
9 psychologists with conditions;

10 C. "independently licensed prescribing clinician"
11 means a:

12 (1) licensed physician;

13 (2) osteopathic physician;

14 (3) nurse practitioner;

15 (4) psychiatric nurse practitioner; or

16 (5) clinical nurse specialist;

17 D. "licensed" means a person licensed by the board
18 to practice as a prescribing psychologist or a prescribing
19 psychologist with conditions;

20 E. "practice of psychology" means the observation,
21 description, evaluation, interpretation and modification of
22 human behavior by the application of psychological principles,
23 methods and procedures for the purpose of preventing or
24 eliminating symptomatic, maladaptive or undesired behavior and
25 of enhancing interpersonal relationships, work and life

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1 adjustment, personal effectiveness, behavioral health and
2 mental health; and further means the rendering of such
3 psychological services to individuals, families or groups
4 regardless of whether payment is received for services
5 rendered. The practice of psychology includes psychological
6 testing or neuropsychological testing and the evaluation or
7 assessment of personal characteristics such as intelligence,
8 personality, abilities, interests, aptitudes and
9 neuropsychological functioning; counseling, psychoanalysis,
10 psychotherapy, hypnosis, biofeedback, behavior analysis and
11 therapy; diagnosis and treatment of a mental and emotional
12 disorder or disability, alcoholism and substance abuse,
13 disorders of habit or conduct and the psychological aspects of
14 physical illness, accident, injury and disability; and
15 psychoeducational evaluation, therapy, remediation and
16 consultation;

17 F. "prescribing psychologist" means a licensed
18 psychologist who is trained in clinical psychopharmacology,
19 engages in the practice of psychology and holds the authority
20 to administer, prescribe, count and distribute without charge
21 medication to treat mental illness consistent with the
22 standards of practice for clinical psychopharmacology;

23 G. "prescribing psychologist with conditions" means
24 a license issued by the board to a licensed psychologist that
25 permits the holder to practice psychology and to prescribe and

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1 administer psychotropic medication to treat mental illness
2 consistent with the standards of practice for the profession of
3 clinical psychopharmacology while under the supervision of a
4 board-approved supervising clinician pursuant to the
5 Prescribing Psychologist Practice Act;

6 H. "psychologist" means a person who engages in the
7 practice of psychology or holds the person's self out to the
8 public by any title or description of services representing the
9 person as a psychologist, which incorporates the words
10 "psychological", "psychologist" or "psychology", or when a
11 person describes the person's self as above and, under such
12 title or description, offers to render or renders services
13 involving the application of principles, methods and procedures
14 of the science and profession of psychology to persons for
15 compensation or other personal gain;

16 I. "psychotropic medication" means a controlled
17 substance or dangerous drug that may not be dispensed or
18 administered without a prescription but is limited to only
19 those agents related to the diagnosis and treatment or
20 management of mental, nervous, emotional, behavioral, substance
21 abuse or cognitive disorders, including the management of or
22 protection from side effects that result from the use of those
23 agents, whose use is consistent with the standards of practice
24 for clinical psychopharmacology;

25 J. "school" means a university or other institution

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1 of higher education that is regionally accredited and that
 2 offers a full-time graduate course of study in psychology as
 3 defined by rule of the board or that is approved by the
 4 American psychological association; and

5 K. "supervising clinician" means a licensed
 6 physician, osteopathic physician, nurse practitioner,
 7 psychiatric nurse practitioner or clinical nurse specialist or
 8 board-approved prescribing psychologist supervisor who is
 9 supervising a psychologist in the prescribing of medication to
 10 treat mental illness consistent with the standards of practice
 11 for clinical psychopharmacology."

12 SECTION 3. A new section of Chapter 61 NMSA 1978 is
 13 enacted to read:

14 "[NEW MATERIAL] BOARD DUTIES.--By November 11, 2023, the
 15 board shall:

16 A. pursuant to the State Rules Act, promulgate
 17 rules as necessary to implement the Prescribing Psychologist
 18 Practice Act, including rules for the initial licensure,
 19 renewal and certification of prescribing psychologists;

20 B. establish standards of prescribing psychology
 21 practice in accordance with those developed and accepted by the
 22 profession;

23 C. develop educational requirements for the
 24 expansion of the scope of practice of prescribing psychology;

25 D. examine, approve, deny, revoke, suspend and

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1 renew the licenses of prescribing psychologists;

2 E. conduct hearings pursuant to the Uniform
3 Licensing Act upon complaints concerning the disciplining of a
4 prescribing psychologist;

5 F. prosecute and enjoin persons alleged to be in
6 violation of the Prescribing Psychologist Practice Act; and

7 G. set fees for licensure of prescribing
8 psychologists; provided that the fees do not to exceed:

9 (1) seven hundred fifty dollars (\$750) for a
10 triennial prescribing psychologist license; and

11 (2) one hundred dollars (\$100) for a two-year
12 prescribing psychologist with conditions license."

13 SECTION 4. A new section of Chapter 61 NMSA 1978 is
14 enacted to read:

15 "[NEW MATERIAL] DRUGS--MEDICINES.--

16 A. A prescribing psychologist with conditions may
17 prescribe and administer psychotropic medication, including
18 intramuscular injections to include antipsychotic medication
19 and injectable naltrexone, under the supervision of a
20 supervising clinician.

21 B. A prescribing psychologist may prescribe, count
22 and administer psychotropic medication, including intramuscular
23 injections to include antipsychotic medications and injectable
24 naltrexone."

25 SECTION 5. A new section of Chapter 61 NMSA 1978 is

1 enacted to read:

2 "[NEW MATERIAL] LICENSURE APPLICATION--REQUIREMENTS--
3 RULEMAKING--ISSUANCE, DENIAL, RENEWAL AND REVOCATION OF
4 LICENSE.--

5 A. A psychologist may apply to the board for a
6 prescribing psychologist license. The application shall be
7 made on a form approved by the board and be accompanied by
8 evidence satisfactory to the board that the applicant:

9 (1) holds a current license to practice
10 psychology in New Mexico;

11 (2) has successfully completed pharmacological
12 training from an institution of higher education approved by
13 the board;

14 (3) has passed a national certification
15 examination approved by the association of state and provincial
16 psychology boards or successor organizations that tests the
17 applicant's proficiency and knowledge of psychopharmacology in
18 the diagnosis, care and treatment of mental disorders;

19 (4) within the five years immediately
20 preceding the date of application, has successfully completed
21 an organized program of education approved by the board and
22 consisting of didactic instruction of no fewer than four
23 hundred fifty classroom hours in at least the following core
24 areas of instruction:

25 (a) neuroscience;

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- 1 (b) pharmacology;
- 2 (c) psychopharmacology;
- 3 (d) physiology;
- 4 (e) pathophysiology;
- 5 (f) appropriate and relevant physical
- 6 and laboratory assessment; and
- 7 (g) clinical pharmacotherapeutics;

8 (5) within the five years immediately
9 preceding the date of application, has been certified by each
10 of the applicant's supervising independently licensed
11 prescribing clinicians as having successfully completed a
12 supervised and relevant clinical experience, approved by the
13 board, of:

14 (a) no less than an eighty-hour
15 practicum in clinical assessment and pathophysiology under the
16 supervision of an approved supervising clinician; and

17 (b) an additional supervised practicum
18 of at least four hundred hours treating no fewer than one
19 hundred patients with mental disorders, which is supervised,
20 either in person, telephonically or by video conference, by a
21 board-approved supervising clinician determined to be competent
22 to train the applicant in the treatment of a diverse patient
23 population;

24 (6) has malpractice insurance sufficient to
25 satisfy the rules adopted by the board and provides coverage of

1 the applicant during the period that the license is active; and
 2 (7) meets all other requirements as determined
 3 by rule of the board for obtaining a prescribing psychologist
 4 license.

5 B. The board shall issue a prescribing psychologist
 6 license with conditions if it finds that the applicant has met
 7 the requirements of Subsection A of this section. The license
 8 shall be valid for a period of two years, at the end of which
 9 the holder may reapply pursuant to Subsection A of this
 10 section. A prescribing psychologist with conditions may
 11 prescribe psychotropic medication under the supervision of a
 12 supervising clinician subject to the following conditions:

13 (1) the psychologist shall notify the board of
 14 the name of the psychologist's supervising clinician; and

15 (2) a supervising clinician shall notify the
 16 supervising clinician's own licensing board of the name of each
 17 psychologist under the supervising clinician's supervision.

18 C. A supervising clinician shall not be liable for
 19 the acts of a prescribing psychologist under the supervising
 20 clinician's supervision unless the injury or loss arises from
 21 those acts under the direction and control of the supervising
 22 clinician.

23 D. A prescribing psychologist may prescribe
 24 psychotropic medication pursuant to the provisions of the
 25 Prescribing Psychologist Practice Act if the psychologist

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1 annually satisfies the continuing education requirements for
2 psychologists as set by the board, which shall be no fewer than
3 twenty hours and no more than twenty-five hours each year.

4 E. The board shall promulgate rules providing for
5 the procedures to be followed in obtaining a prescribing
6 psychologist license.

7 F. The board shall promulgate rules establishing
8 the grounds for denial, suspension or revocation of prescribing
9 psychologist with conditions and prescribing psychologist
10 licenses authorized to be issued pursuant to this section,
11 including a provision for suspension or revocation of a license
12 to practice psychology upon suspension or revocation of a
13 prescribing psychologist or prescribing psychologist with
14 conditions license. Actions of denial, suspension or
15 revocation of a license shall be in accordance with the Medical
16 Practice Act."

17 SECTION 6. A new section of Chapter 61 NMSA 1978 is
18 enacted to read:

19 "[NEW MATERIAL] PRESCRIBING PRACTICES.--

20 A. A prescribing psychologist or a prescribing
21 psychologist with conditions may prescribe and administer
22 medication to treat mental illness within the recognized scope
23 of clinical psychopharmacology.

24 B. A supervising clinician shall supervise no more
25 than four prescribing psychologists with conditions

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1 simultaneously.

2 C. When prescribing medication for a patient, the
 3 prescribing psychologist or the prescribing psychologist with
 4 conditions shall maintain an ongoing collaborative relationship
 5 with the health care practitioner who oversees the patient's
 6 general medical care, and such collaboration should be
 7 documented in the patient's record.

8 D. If a patient presents for care to a prescribing
 9 psychologist or a prescribing psychologist with conditions, but
 10 does not have an established patient relationship with a
 11 primary health care provider, and the prescribing psychologist
 12 or prescribing psychologist with conditions believes that
 13 delaying the initiation of medication might endanger the
 14 patient's health or safety, the prescribing psychologist or the
 15 prescribing psychologist with conditions may begin treatment
 16 for no more than sixty days during the interval from when the
 17 patient makes a new patient appointment until the patient is
 18 seen by the new primary health care provider.

19 E. The guidelines shall ensure that the
 20 prescribing psychologist or the prescribing psychologist with
 21 conditions and the health care practitioner coordinate and
 22 collaborate to provide optimal care for the patient. Nothing
 23 in this subsection shall require a prescribing psychologist or
 24 prescribing psychologist with conditions to give prior notice
 25 to or obtain prior approval from a health care practitioner to

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1 prescribe psychotropic medication to a patient with whom the
2 prescribing psychologist or prescribing psychologist with
3 conditions has established a psychologist-patient relationship;
4 provided that the psychologist provides written notice of the
5 prescription to the health care practitioner within twenty-four
6 hours of its issuance to such patient.

7 F. A prescribing psychologist or a prescribing
8 psychologist with conditions shall not delegate prescriptive
9 authority to any other person. Records of all prescriptions
10 shall be maintained in patient records.

11 G. When authorized to prescribe controlled
12 substances, a prescribing psychologist or a prescribing
13 psychologist with conditions shall file with the board in a
14 timely manner all individual federal and state drug enforcement
15 administration registrations and numbers. The board shall
16 maintain current records on every prescribing psychologist,
17 including federal registrations and numbers.

18 H. For the purpose of this section:

19 (1) "collaborative relationship" means a
20 cooperative working relationship between a prescribing
21 psychologist or a prescribing psychologist with conditions and
22 a health care practitioner in the provision of patient care,
23 including diagnosis and cooperation in the management and
24 delivery of physical and mental health care; and

25 (2) "health care practitioner" means a

1 physician, osteopathic physician, nurse practitioner, physician
2 assistant or clinical nurse specialist."

3 SECTION 7. A new section of Chapter 61 NMSA 1978 is
4 enacted to read:

5 "[NEW MATERIAL] ISSUANCE AND RENEWAL OF PRESCRIBING
6 PSYCHOLOGIST LICENSE.--

7 A. The board shall issue a prescribing psychologist
8 or a prescribing psychologist with conditions license to a
9 licensed psychologist who meets the qualifications under
10 Section 5 of the Prescribing Psychologist Practice Act and who
11 pays the licensing fees.

12 B. The board shall issue a prescribing psychologist
13 license to a licensed psychologist who, at the time of the
14 enactment of the Prescribing Psychologist Practice Act, was
15 certified to unconditionally prescribe medication by the New
16 Mexico state board of psychologist examiners.

17 C. The board shall issue a prescribing psychologist
18 with conditions license to a licensed psychologist who, at the
19 time of the enactment of the Prescribing Psychologist Practice
20 Act, was certified to prescribe medication on a conditional
21 basis by the New Mexico state board of psychologist examiners.

22 D. A license or certification shall be subject to
23 renewal every three years.

24 E. The prescribing psychologist license shall
25 include the practice of psychology."

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1 SECTION 8. A new section of Chapter 61 NMSA 1978 is
2 enacted to read:

3 "[NEW MATERIAL] PRESCRIBING PSYCHOLOGIST ADVISORY COUNCIL
4 CREATED.--

5 A. The "prescribing psychologist advisory council"
6 is created under the direction of the board. The council shall
7 advise the board regarding:

8 (1) reviewing and recommending licensure of
9 prescribing psychologists;

10 (2) recommending additional education
11 requirements for prescribing psychologists;

12 (3) recommending continuing education
13 requirements;

14 (4) reviewing complaints for possible action;

15 (5) identifying disciplinary actions and
16 circumstances that require disciplinary action;

17 (6) recommending changes related to statutes
18 and rules; and

19 (7) other matters as requested by the board.

20 B. The council consists of six members selected by
21 the board as follows:

22 (1) two members shall be physicians
23 recommended by the board and the New Mexico medical society;

24 and

25 (2) four members shall be prescribing

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1 psychologists selected from names submitted by the statewide
 2 organization of prescribing psychologists.

3 C. A vacancy shall be filled in the manner of the
 4 original appointment.

5 D. The council shall meet at least four times per
 6 year.

7 E. Members of the council shall be reimbursed as
 8 nonsalaried public officers pursuant to the Per Diem and
 9 Mileage Act, and members shall receive no other compensation,
 10 perquisite or allowance for their service on the council."

11 SECTION 9. Section 61-3-23.5 NMSA 1978 (being Laws 2019,
 12 Chapter 19, Section 7) is amended to read:

13 "61-3-23.5. SUPERVISION OF PSYCHOLOGIST IN THE
 14 PRESCRIBING OF PSYCHOTROPIC MEDICATION BY NURSE PRACTITIONER OR
 15 CLINICAL NURSE SPECIALIST.--

16 A. Subject to rules promulgated by the board, a
 17 nurse practitioner or clinical nurse specialist may supervise a
 18 psychologist in the prescribing of psychotropic medication
 19 pursuant to the [~~Professional Psychologist~~] Prescribing
 20 Psychologist Practice Act.

21 B. No later than January 1, 2020, the board shall
 22 promulgate [~~regulations~~] rules for a nurse practitioner or
 23 clinical nurse specialist who supervises a psychologist in the
 24 prescribing of psychotropic medication pursuant to the
 25 [~~Professional Psychologist~~] Prescribing Psychologist Practice

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1 Act."

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

4 "61-6-5. MEDICAL BOARD DUTIES AND POWERS.--The board
5 shall:

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

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

21 C. adopt and use a seal;

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

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

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

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

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

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

16 J. have the authority to hire or contract with
 17 investigators to investigate possible violations of the Medical
 18 Practice Act;

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

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1 be compensated from the funds of the board;

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

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

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

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

12 P. have the authority to waive licensure fees for
13 the purpose of the recruitment and retention of health care
14 practitioners over which the board has authority."

15 SECTION 11. Section 61-6-6 NMSA 1978 (being Laws 1973,
16 Chapter 361, Section 1, as amended) is amended to read:

17 "61-6-6. DEFINITIONS.--As used in the Medical Practice
18 Act:

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

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

24 C. "collaboration" means the process by which a
25 licensed physician and a physician assistant jointly contribute

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1 to the health care and medical treatment of patients; provided
 2 that:

3 (1) each collaborator performs actions that
 4 the collaborator is licensed or otherwise authorized to
 5 perform; and

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

9 D. "licensed physician" means a medical or
 10 osteopathic physician licensed under the Medical Practice Act
 11 to practice medicine in New Mexico;

12 E. "licensee" or "health care practitioner" means a
 13 medical physician, osteopathic physician, physician assistant,
 14 polysomnographic technologist, anesthesiologist assistant,
 15 prescribing psychologist, naturopathic doctor or naprapath
 16 licensed by the board to practice in New Mexico;

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

25 G. "medical student" means a student enrolled in a

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1 board-approved medical college or school in good standing;

2 H. "physician assistant" means a health care
3 practitioner who is licensed by the board to practice as a
4 physician assistant and who provides services to patients with
5 the supervision of or in collaboration with a licensed
6 physician as set forth in rules promulgated by the board;

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

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

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

18 (2) offering or undertaking to administer,
19 dispense or prescribe a drug or medicine for the use of another
20 person, except as authorized pursuant to a professional or
21 occupational licensing statute set forth in Chapter 61 NMSA
22 1978;

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

1 physician;

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

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

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

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

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

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

24 (2) the rendering of treatment to a patient
25 within this state by a physician located outside this state as

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1 a result of transmission of individual patient data by
2 electronic, telephonic or other means from within this state to
3 the physician or the physician's agent;

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

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

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

18 SECTION 12. Section 61-6-15 NMSA 1978 (being Laws 1969,
19 Chapter 46, Section 6, as amended) is amended to read:

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

25 A. The board may refuse to license and may revoke

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1 or suspend a license that has been issued by the board or a
 2 previous board and may fine, censure or reprimand a licensee
 3 upon satisfactory proof being made to the board that the
 4 applicant for or holder of the license has been guilty of
 5 unprofessional or dishonorable conduct. The board may also
 6 refuse to license an applicant who is unable to practice as a
 7 physician, practice as a physician assistant, an
 8 anesthesiologist assistant, a genetic counselor, a naturopathic
 9 practitioner [~~or~~], a naprapathic practitioner or a prescribing
 10 psychologist or practice polysomnography, pursuant to Section
 11 61-7-3 NMSA 1978. All proceedings shall be as required by the
 12 Uniform Licensing Act or the Impaired Health Care Provider Act.

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

22 C. If evidence fails to establish to the
 23 satisfaction of the board that the licensee is competent and is
 24 of good moral character or if evidence shows that the licensee
 25 has not complied with the terms of probation, the board may

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1 revoke or suspend the license. If a license to practice in
2 this state is suspended, the holder of the license may not
3 practice during the term of suspension. A person whose license
4 has been revoked or suspended by the board and who thereafter
5 practices or attempts or offers to practice in New Mexico,
6 unless the period of suspension has expired or been modified by
7 the board or the license reinstated, is guilty of a felony and
8 shall be punished as provided in Section 61-6-20 NMSA 1978.

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

12 (1) procuring, aiding or abetting an illegal
13 procedure;

14 (2) employing a person to solicit patients for
15 the licensee;

16 (3) representing to a patient that a
17 manifestly incurable condition of sickness, disease or injury
18 can be cured;

19 (4) obtaining a fee by fraud or
20 misrepresentation;

21 (5) willfully or negligently divulging a
22 professional confidence;

23 (6) conviction of an offense punishable by
24 incarceration in a state penitentiary or federal prison or
25 conviction of a misdemeanor associated with the practice of the

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1 licensee. A copy of the record of conviction, certified by the
2 clerk of the court entering the conviction, is conclusive
3 evidence;

4 (7) habitual or excessive use of intoxicants
5 or drugs;

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

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

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

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

23 (12) gross negligence in the practice of a
24 licensee;

25 (13) manifest incapacity or incompetence to

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1 practice as a licensee;

2 (14) discipline imposed on a licensee by
3 another licensing jurisdiction, including denial, probation,
4 suspension or revocation, based upon acts by the licensee
5 similar to acts described in this section. A certified copy of
6 the record of disciplinary action or sanction taken by another
7 jurisdiction is conclusive evidence of the action;

8 (15) the use of a false, fraudulent or
9 deceptive statement in a document connected with the practice
10 of a licensee;

11 (16) fee splitting;

12 (17) the prescribing, administering or
13 dispensing of narcotic, stimulant or hypnotic drugs for other
14 than accepted therapeutic purposes;

15 (18) conduct likely to deceive, defraud or
16 harm the public;

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

20 (20) employing abusive billing practices;

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

23 (a) another licensing jurisdiction;

24 (b) a peer review body;

25 (c) a health care entity;

1 (d) a professional or medical society or
2 association;

3 (e) a governmental agency;

4 (f) a law enforcement agency; or

5 (g) a court for acts or conduct similar
6 to acts or conduct that would constitute grounds for action as
7 defined in this section;

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

17 (23) failure to furnish the board, its
18 investigators or representatives with information requested by
19 the board;

20 (24) abandonment of patients;

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

23 (26) injudicious prescribing, administering or
24 dispensing of a drug or medicine;

25 (27) failure to adequately supervise, as

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1 provided by board rule, a medical or surgical assistant or
2 technician or professional licensee who renders health care;

3 (28) sexual contact with a patient or person
4 who has authority to make medical decisions for a patient,
5 other than the spouse of the licensee;

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

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

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

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

21 (33) improper management of medical records,
22 including failure to maintain timely, accurate, legible and
23 complete medical records;

24 (34) failure to provide pertinent and
25 necessary medical records to a physician or patient of the

1 physician in a timely manner when legally requested to do so by
 2 the patient or by a legally designated representative of the
 3 patient;

4 (35) undertreatment of pain as provided by
 5 board rule;

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

10 (37) soliciting or receiving compensation by a
 11 physician assistant or anesthesiologist assistant from a person
 12 who is not an employer of the assistant;

13 (38) willfully or negligently divulging
 14 privileged information or a professional secret; or

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

16 E. As used in this section:

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

22 "Conversion therapy" does not mean:

23 (a) counseling or mental health services
 24 that provide acceptance, support and understanding of a person
 25 without seeking to change gender identity or sexual

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1 orientation; or

2 (b) mental health services that
3 facilitate a person's coping, social support, sexual
4 orientation or gender identity exploration and development,
5 including an intervention to prevent or address unlawful
6 conduct or unsafe sexual practices, without seeking to change
7 gender identity or sexual orientation;

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

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

22 (4) "minor" means a person under eighteen
23 years of age; and

24 (5) "sexual orientation" means
25 heterosexuality, homosexuality or bisexuality, whether actual

1 or perceived.

2 F. Licensees whose licenses are in a probationary
 3 status shall pay reasonable expenses for maintaining
 4 probationary status, including laboratory costs when laboratory
 5 testing of biological fluids [~~are~~] is included as a condition
 6 of probation."

7 SECTION 13. Section 61-6-31 NMSA 1978 (being Laws 1989,
 8 Chapter 269, Section 27, as amended) is amended to read:

9 "61-6-31. DISPOSITION OF FUNDS--NEW MEXICO MEDICAL BOARD
 10 FUND CREATED--METHOD OF PAYMENTS.--

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

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

22 C. All payments out of the fund shall be made on
 23 vouchers issued and signed by the secretary-treasurer of the
 24 board or the designee of the secretary-treasurer upon warrants
 25 drawn by the department of finance and administration in

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1 accordance with the budget approved by that department.

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

5 (1) the performance of the provisions of the
6 Medical Practice Act, the Physician Assistant Act, the
7 Anesthesiologist Assistants Act, the Genetic Counseling Act,
8 the Polysomnography Practice Act, the Prescribing Psychologist
9 Practice Act, the Impaired Health Care Provider Act, the
10 Naturopathic Doctors' Practice Act and the Naprapathic Practice
11 Act and the duties and powers imposed by those acts;

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

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

16 E. All funds that may have accumulated to the
17 credit of the board under any previous law shall be transferred
18 to the New Mexico medical board fund and shall continue to be
19 available for use by the board in accordance with the
20 provisions of the Medical Practice Act, the Physician Assistant
21 Act, the Anesthesiologist Assistants Act, the Genetic
22 Counseling Act, the Polysomnography Practice Act, the
23 Prescribing Psychologist Practice Act, the Impaired Health Care
24 Provider Act, the Naturopathic Doctors' Practice Act and the
25 Naprapathic Practice Act. All money unused at the end of the

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1 fiscal year shall not revert, but shall remain in the fund for
 2 use in accordance with the provisions of the Medical Practice
 3 Act, the Physician Assistant Act, the Anesthesiologist
 4 Assistants Act, the Genetic Counseling Act, the Polysomnography
 5 Practice Act, the Prescribing Psychologist Practice Act, the
 6 Impaired Health Care Provider Act, the Naturopathic Doctors'
 7 Practice Act and the Naprapathic Practice Act."

8 SECTION 14. Section 61-9-3 NMSA 1978 (being Laws 1963,
 9 Chapter 92, Section 3, as amended) is amended to read:

10 "61-9-3. DEFINITIONS.--As used in the Professional
 11 Psychologist Act:

12 A. "board" means the New Mexico state board of
 13 psychologist examiners;

14 ~~[B. "conditional prescription certificate" means a~~
 15 ~~document issued by the board to a licensed psychologist that~~
 16 ~~permits the holder to prescribe psychotropic medication under~~
 17 ~~the supervision of a supervising clinician pursuant to the~~
 18 ~~Professional Psychologist Act;~~

19 ~~C. "independently licensed prescribing clinician"~~
 20 ~~means a licensed physician, osteopathic physician, nurse~~
 21 ~~practitioner, psychiatric nurse practitioner or clinical nurse~~
 22 ~~specialist;~~

23 ~~D.]~~ B. "person" includes an individual, firm,
 24 partnership, association or corporation;

25 ~~[E. "prescribing psychologist" means a licensed~~

1 ~~psychologist who holds a valid prescription certificate;~~

2 ~~F. "prescription certificate" means a document~~
3 ~~issued by the board to a licensed psychologist that permits the~~
4 ~~holder to prescribe psychotropic medication pursuant to the~~
5 ~~Professional Psychologist Act;~~

6 ~~G. "psychotropic medication" means a controlled~~
7 ~~substance or dangerous drug that may not be dispensed or~~
8 ~~administered without a prescription and whose primary~~
9 ~~indication for use has been approved by the federal food and~~
10 ~~drug administration for the treatment of mental disorders or is~~
11 ~~listed as a psychotherapeutic agent in *Drug Facts and*~~
12 ~~*Comparisons 2017*, or the most recent edition of that book, or~~
13 ~~in *American Hospital Formulary Service Drug Information*;~~

14 ~~H.]~~ C. "psychologist" means a person who engages in
15 the practice of psychology or holds the person's self out to
16 the public by any title or description of services representing
17 the person as a psychologist, which incorporates the words
18 "psychological", "psychologist", "psychology", or when a person
19 describes the person's self as above and, under such title or
20 description, offers to render or renders services involving the
21 application of principles, methods and procedures of the
22 science and profession of psychology to persons for
23 compensation or other personal gain;

24 ~~[F.]~~ D. "practice of psychology" means the
25 observation, description, evaluation, interpretation and

1 modification of human behavior by the application of
 2 psychological principles, methods and procedures for the
 3 purpose of preventing or eliminating symptomatic, maladaptive
 4 or undesired behavior and of enhancing interpersonal
 5 relationships, work and life adjustment, personal
 6 effectiveness, behavioral health and mental health, and further
 7 means the rendering of such psychological services to
 8 individuals, families or groups regardless of whether payment
 9 is received for services rendered. The practice of psychology
 10 includes psychological testing or neuropsychological testing
 11 and the evaluation or assessment of personal characteristics
 12 such as intelligence, personality, abilities, interests,
 13 aptitudes and neuropsychological functioning; counseling,
 14 psychoanalysis, psychotherapy, hypnosis, biofeedback, behavior
 15 analysis and therapy; diagnosis and treatment of a mental and
 16 emotional disorder or disability, alcoholism and substance
 17 abuse, disorders of habit or conduct and the psychological
 18 aspects of physical illness, accident, injury and disability;
 19 and psychoeducational evaluation, therapy, remediation and
 20 consultation; and

21 [~~J-~~] E. "school" or "college" means a university or
 22 other institution of higher education that is regionally
 23 accredited and that offers a full-time graduate course of study
 24 in psychology as defined by rule of the board or that is
 25 approved by the American psychological association [~~and~~

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1 K. ~~"Supervising clinician" means a licensed~~
2 ~~physician, osteopathic physician, nurse practitioner,~~
3 ~~psychiatric nurse practitioner or clinical nurse specialist who~~
4 ~~is supervising a psychologist in the prescribing of~~
5 ~~psychotropic medication]."~~

6 SECTION 15. Section 61-9-10 NMSA 1978 (being Laws 1963,
7 Chapter 92, Section 9, as amended) is amended to read:

8 "61-9-10. LICENSURE OF PSYCHOLOGISTS FROM OTHER AREAS--
9 EXPEDITED LICENSURE.--

10 A. Except as provided in Section 61-9-10.1 NMSA
11 1978 for temporary or other provisional licensure that is not
12 an expedited license, upon application accompanied by a fee as
13 required by the Professional Psychologist Act, the board shall,
14 without written or oral examination, issue an expedited license
15 to a person who furnishes, upon a form and in such manner as
16 the board prescribes, evidence to the board that the person has
17 been licensed or certified as a psychologist [~~or prescribing~~
18 ~~psychologist~~] by another licensing jurisdiction for two years.
19 An applicant seeking a license shall demonstrate to the board
20 that the training and education received by the applicant is
21 equivalent to the requirements for a doctoral degree in
22 psychology as provided in the Professional Psychologist Act;
23 that the applicant holds a valid, unrestricted license and is
24 in good standing with the licensing board of that licensing
25 jurisdiction; and the applicant has practiced psychology for at

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1 least two years immediately prior to application in New Mexico.

2 B. The board shall, as soon as practicable but not
 3 later than thirty days after an out-of-state licensee files an
 4 application for an expedited license, process the application
 5 and issue an expedited license in accordance with Section
 6 61-1-31.1 NMSA 1978.

7 C. If the board issues an expedited license to a
 8 person whose prior licensing jurisdiction did not require
 9 examination, the board may require the person to pass an
 10 examination before license renewal.

11 D. The board by rule shall determine the states and
 12 territories of the United States and the District of Columbia
 13 from which it will not accept an applicant for expedited
 14 licensure and shall determine any foreign countries from which
 15 it will accept an applicant for expedited licensure. The board
 16 shall post the lists of disapproved and approved licensing
 17 jurisdictions on its website. The list of disapproved
 18 licensing jurisdictions shall include the specific reasons for
 19 disapproval. The rule shall be reviewed annually to determine
 20 if amendments to the rule are warranted."

21 SECTION 16. DELAYED REPEAL.--Sections 61-9-17 through
 22 61-9-17.3 NMSA 1978 (being Laws 1963, Chapter 92, Section 16,
 23 Laws 2002, Chapter 100, Sections 6 and 7 and Laws 2019, Chapter
 24 19, Section 8, as amended) are repealed effective March 1,
 25 2024.

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1 SECTION 17. EFFECTIVE DATE.--The effective date of the
2 provisions of this act is July 1, 2024.

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