

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 117

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY

Michael S. Sanchez

AN ACT

RELATING TO ORIENTAL MEDICINE; EXPANDING THE PRACTICE OF
DOCTORS OF ORIENTAL MEDICINE; PROVIDING FOR APPROVAL OF
EDUCATION PROGRAMS; ALLOWING FOR INTERNS; ALLOWING FOR
EXTENDED OR EXPANDED PRESCRIPTIVE AUTHORITY.

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

Section 1. Section 30-31-2 NMSA 1978 (being Laws 1972,
Chapter 84, Section 2, as amended by Laws 1997, Chapter 244,
Section 2 and also by Laws 1997, Chapter 253, Section 3) is
amended to read:

"30-31-2. DEFINITIONS.--As used in the Controlled
Substances Act:

A. "administer" means the direct application of a
controlled substance by any means to the body of a patient or
research subject by a practitioner or his agent;

B. "agent" includes an authorized person who acts

underscored material = new
~~[bracketed material] = delete~~

1 on behalf of a manufacturer, distributor or dispenser. It
2 does not include a common or contract carrier, public
3 warehouseman or employee of the carrier or warehouseman;

4 C. "board" means the board of pharmacy;

5 D. "bureau" means the [~~bureau of narcotics and~~
6 ~~dangerous drugs~~] narcotic and dangerous drug section of the
7 criminal division of the United States department of justice,
8 or its successor agency;

9 E. "controlled substance" means a drug or
10 substance listed in Schedules I through V of the Controlled
11 Substances Act or regulations adopted thereto;

12 F. "counterfeit substance" means a controlled
13 substance that bears the unauthorized trademark, trade name,
14 imprint, number, device or other identifying mark or likeness
15 of a manufacturer, distributor or dispenser other than the
16 person who in fact manufactured, distributed or dispensed the
17 controlled substance;

18 G. "deliver" means the actual, constructive or
19 attempted transfer from one person to another of a controlled
20 substance or controlled substance analog, whether or not
21 there is an agency relationship;

22 H. "dispense" means to deliver a controlled
23 substance to an ultimate user or research subject pursuant to
24 the lawful order of a practitioner, including the
25 administering, prescribing, packaging, labeling or
compounding necessary to prepare the controlled substance for
that delivery;

.130411.1

underscored material = new
~~[bracketed material] = delete~~

1 I. "dispenser" means a practitioner who dispenses
2 and includes hospitals, pharmacies and clinics where
3 controlled substances are dispensed;

4 J. "distribute" means to deliver other than by
5 administering or dispensing a controlled substance or
6 controlled substance analog;

7 K. "drug" or "substance" means substances
8 recognized as drugs in the official United States
9 pharmacopoeia, official homeopathic pharmacopoeia of the
10 United States or official national formulary or any
11 respective supplement to those publications. It does not
12 include devices or their components, parts or accessories;

13 L. "hashish" means the resin extracted from any
14 part of marijuana, whether growing or not, and every
15 compound, manufacture, salt, derivative, mixture or
16 preparation of such resins;

17 M. "manufacture" means the production,
18 preparation, compounding, conversion or processing of a
19 controlled substance or controlled substance analog by
20 extraction from substances of natural origin or independently
21 by means of chemical synthesis or by a combination of
22 extraction and chemical synthesis and includes any packaging
23 or repackaging of the substance or labeling or relabeling of
24 its container, except that this term does not include the
25 preparation or compounding of a controlled substance:

(1) by a practitioner as an incident to his
administering or dispensing of a controlled substance in the

underscored material = new
~~[bracketed material] = delete~~

1 course of his professional practice; or

2 (2) by a practitioner, or by his agent under
3 his supervision, for the purpose of or as an incident to
4 research, teaching or chemical analysis and not for sale;

5 N. "marijuana" means all parts of the plant
6 Cannabis, including any and all varieties, species and
7 subspecies of the genus Cannabis, whether growing or not, the
8 seeds thereof and every compound, manufacture, salt,
9 derivative, mixture or preparation of the plant or its seeds.
10 It does not include the mature stalks of the plant, hashish,
11 tetrahydrocannabinols extracted or isolated from marijuana,
12 fiber produced from the stalks, oil or cake made from the
13 seeds of the plant, any other compound, manufacture, salt,
14 derivative, mixture or preparation of the mature stalks,
15 fiber, oil or cake, or the sterilized seed of the plant that
16 is incapable of germination;

17 O. "narcotic drug" means any of the following,
18 whether produced directly or indirectly by extraction from
19 substances of vegetable origin or independently by means of
20 chemical synthesis or by a combination of extraction and
21 chemical synthesis:

22 (1) opium and opiate and any salt, compound,
23 derivative or preparation of opium or opiate;

24 (2) any salt, compound, isomer, derivative
25 or preparation that is a chemical equivalent of any of the
substances referred to in Paragraph (1) of this subsection,
except the isoquinoline alkaloids of opium;

.130411.1

underscoring material = new
~~[bracketed material] = delete~~

1 (3) opium poppy and poppy straw, including
2 all parts of the plant of the species *Papaver somniferum* L.
3 except its seeds; or

4 (4) coca leaves and any salt, compound,
5 derivative or preparation of coca leaves, any salt, compound,
6 isomer, derivative or preparation that is a chemical
7 equivalent of any of these substances except decocainized
8 coca leaves or extractions of coca leaves that do not contain
9 cocaine or ecgonine;

10 P. "opiate" means any substance having an
11 addiction-forming or addiction-sustaining liability similar
12 to morphine or being capable of conversion into a drug having
13 addiction-forming or addiction-sustaining liability.

14 "Opiate" does not include, unless specifically designated as
15 controlled under Section 30-31-5 NMSA 1978, the
16 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its
17 salts (dextromethorphan). "Opiate" does include its racemic
18 and levorotatory forms;

19 Q. "person" ~~[includes a]~~ means an individual,
20 partnership, corporation, association, institution, political
21 subdivision, government agency or other legal entity;

22 R. "practitioner" means a physician, doctor of
23 oriental medicine, dentist, certified nurse practitioner,
24 clinical nurse specialist, certified nurse-midwife,
25 veterinarian or other person licensed or certified to
prescribe and administer drugs that are subject to the
Controlled Substances Act;

.130411.1

underscored material = new
~~[bracketed material] = delete~~

1 S. "prescription" means an order given
2 individually for the person for whom is prescribed a
3 controlled substance, either directly from the prescriber to
4 the pharmacist or indirectly by means of a written order
5 signed by the prescriber, in accordance with the Controlled
6 Substances Act or regulations adopted thereto;

7 T. "scientific investigator" means a person
8 registered to conduct research with controlled substances in
9 the course of his professional practice or research and
10 includes analytical laboratories;

11 U. "ultimate user" means a person who lawfully
12 possesses a controlled substance for his own use or for the
13 use of a member of his household or for administering to an
14 animal under the care, custody and control of the person or
15 by a member of his household;

16 V. "drug paraphernalia" means all equipment,
17 products and materials of any kind that are used, intended
18 for use or designed for use in planting, propagating,
19 cultivating, growing, harvesting, manufacturing, compounding,
20 converting, producing, processing, preparing, testing,
21 analyzing, packaging, repackaging, storing, containing,
22 concealing, injecting, ingesting, inhaling or otherwise
23 introducing into the human body a controlled substance or
24 controlled substance analog in violation of the Controlled
25 Substances Act. It includes:

(1) kits used, intended for use or designed
for use in planting, propagating, cultivating, growing or

1 harvesting any species of plant that is a controlled
2 substance or controlled substance analog or from which a
3 controlled substance can be derived;

4 (2) kits used, intended for use or designed
5 for use in manufacturing, compounding, converting, producing,
6 processing or preparing controlled substances or controlled
7 substance analogs;

8 (3) isomerization devices used, intended for
9 use or designed for use in increasing the potency of any
10 species of plant that is a controlled substance;

11 (4) testing equipment used, intended for use
12 or designed for use in identifying or in analyzing the
13 strength, effectiveness or purity of controlled substances or
14 controlled substance analogs;

15 (5) scales or balances used, intended for
16 use or designed for use in weighing or measuring controlled
17 substances or controlled substance analogs;

18 (6) diluents and adulterants, such as
19 quinine hydrochloride, mannitol, mannite dextrose and
20 lactose, used, intended for use or designed for use in
21 cutting controlled substances or controlled substance
22 analogs;

23 (7) separation gins and sifters used,
24 intended for use or designed for use in removing twigs and
25 seeds from, or in otherwise cleaning and refining, marijuana;

(8) blenders, bowls, containers, spoons and
mixing devices used, intended for use or designed for use in

underscoring material = new
~~[bracketed material] = delete~~

1 compounding controlled substances or controlled substance
2 analogs;

3 (9) capsules, balloons, envelopes and other
4 containers used, intended for use or designed for use in
5 packaging small quantities of controlled substances or
6 controlled substance analogs;

7 (10) containers and other objects used,
8 intended for use or designed for use in storing or concealing
9 controlled substances or controlled substance analogs;

10 (11) hypodermic syringes, needles and other
11 objects used, intended for use or designed for use in
12 parenterally injecting controlled substances or controlled
13 substance analogs into the human body;

14 (12) objects used, intended for use or
15 designed for use in ingesting, inhaling or otherwise
16 introducing marijuana, cocaine, hashish or hashish oil into
17 the human body, such as:

18 (a) metal, wooden, acrylic, glass,
19 stone, plastic or ceramic pipes, with or without screens,
20 permanent screens, hashish heads or punctured metal bowls;

21 (b) water pipes;

22 (c) carburetion tubes and devices;

23 (d) smoking and carburetion masks;

24 (e) roach clips, meaning objects used
25 to hold burning material, such as a marijuana cigarette, that
has become too small to hold in the hand;

(f) miniature cocaine spoons and

.130411.1

1 cocaine vials;

2 (g) chamber pipes;

3 (h) carburetor pipes;

4 (i) electric pipes;

5 (j) air-driven pipes;

6 (k) chilams;

7 (l) bongs; or

8 (m) ice pipes or chillers; and

9 (13) in determining whether an object is
10 drug paraphernalia, a court or other authority should
11 consider, in addition to all other logically relevant
12 factors, the following:

13 (a) statements by the owner or by
14 anyone in control of the object concerning its use;

15 (b) the proximity of the object, in
16 time and space, to a direct violation of the Controlled
17 Substances Act or any other law relating to controlled
18 substances or controlled substance analogs;

19 (c) the proximity of the object to
20 controlled substances or controlled substance analogs;

21 (d) the existence of any residue of a
22 controlled substance or controlled substance analog on the
23 object;

24 (e) instructions, written or oral,
25 provided with the object concerning its use;

(f) descriptive materials accompanying
the object that explain or depict its use;

underscoring material = new
~~[bracketed material] = delete~~

1 (g) the manner in which the object is
2 displayed for sale; and

3 (h) expert testimony concerning its
4 use;

5 W. "controlled substance analog" means a substance
6 other than a controlled substance that has a chemical
7 structure substantially similar to that of a controlled
8 substance in Schedule I, II, III, IV or V or that was
9 specifically designed to produce effects substantially
10 similar to that of controlled substances in Schedule I, II,
11 III, IV or V. Examples of chemical classes in which
12 controlled substance analogs are found include the following:

- 13 (1) phenethylamines;
- 14 (2) N-substituted piperidines;
- 15 (3) morphinans;
- 16 (4) ecgonines;
- 17 (5) quinazolinones;
- 18 (6) substituted indoles; and
- 19 (7) arylcycloalkylamines.

20 Specifically excluded from the definition of "controlled
21 substance analog" are those substances that are generally
22 recognized as safe and effective within the meaning of the
23 Federal Food, Drug and Cosmetic Act or have been
24 manufactured, distributed or possessed in conformance with
25 the provisions of an approved new drug application or an
exemption for investigational use within the meaning of
Section 505 of the Federal Food, Drug and Cosmetic Act;

underscoring material = new
~~[bracketed material] = delete~~

1 X. "human consumption" includes application,
2 injection, inhalation, ingestion or any other manner of
3 introduction [~~whatsoever~~]; and

4 Y. "drug-free school zone" means [~~any~~] a public
5 school or property that is used for public school purposes
6 and the area within one thousand feet of the school property
7 line, but it does not mean any post-secondary school."

8 Section 2. Section 61-14A-3 NMSA 1978 (being Laws 1993,
9 Chapter 158, Section 11, as amended) is amended to read:

10 "61-14A-3. DEFINITIONS.--As used in the Acupuncture and
11 Oriental Medicine Practice Act:

12 A. "acupuncture" means the surgical use of needles
13 inserted into and removed from the [~~human~~] body and the use
14 of other devices, modalities and procedures at specific
15 locations on the body for the prevention, cure or correction
16 of any disease, illness, injury, pain or other condition by
17 controlling and regulating the flow and balance of energy and
18 [~~functioning of the person~~] function to restore and maintain
19 health;

20 B. "board" means the board of acupuncture and
21 oriental medicine;

22 [~~C. "department" means the regulation and
23 licensing department;~~

24 ~~D.]~~ C. "doctor of oriental medicine" means a
25 person licensed as a physician to practice acupuncture and
oriental medicine with the ability to practice independently,
serve as a primary care provider and as necessary collaborate

underscoring material = new
~~[bracketed material] = delete~~

1 with other health care providers;

2 ~~[F.]~~ D. "moxibustion" means the use of heat on or
3 above specific locations or on acupuncture needles at
4 specific locations on the body for the prevention, cure or
5 correction of any disease, illness, injury, pain or other
6 condition;

7 ~~[F.]~~ E. "oriental medicine" means the distinct
8 system of primary health care that uses all allied techniques
9 of oriental medicine, both traditional and modern, to
10 diagnose, treat and prescribe for the prevention, cure or
11 correction of any disease, illness, injury, pain or other
12 physical or mental condition by controlling and regulating
13 the flow and balance of energy and ~~[functioning of the~~
14 ~~person]~~ function to restore and maintain health;

15 ~~[G.]~~ F. "primary care provider" means a health
16 care professional acting within the scope of his license who
17 provides the first level of basic or general health care for
18 ~~[an individual's]~~ a person's health needs, including
19 diagnostic and treatment services; ~~and~~

20 ~~H.]~~ G. "techniques of oriental medicine" means:
21 (1) the diagnostic and treatment techniques
22 used in oriental medicine that include diagnostic procedures;
23 acupuncture; moxibustion; manual therapy, also known as tui
24 na; other physical medicine modalities and therapeutic
25 procedures; breathing and exercise techniques; and dietary,
nutritional and lifestyle counseling;

(2) the prescription or administration of

underscoring material = new
~~[bracketed material] = delete~~

1 any herbal medicine, homeopathic medicine, vitamins,
2 minerals, enzymes, glandular products, natural substances,
3 protomorphogens, live cell products, gerovital, amino acids
4 and dietary and nutritional supplements;

5 (3) the prescription or administration of
6 devices, restricted devices and prescription devices, as
7 those devices are defined in the New Mexico Drug, Device and
8 Cosmetic Act, if the board determines by rule that such
9 devices are necessary in the practice of oriental medicine
10 and if the prescribing doctor of oriental medicine has
11 fulfilled requirements for prescriptive authority in
12 accordance with rules promulgated by the board for the
13 devices enumerated in this paragraph;

14 (4) the prescription or administration of
15 cosmetics, biological products, including therapeutic serum,
16 and over-the-counter drugs, other than those enumerated in
17 Paragraph (2) of this subsection, as those are defined in the
18 New Mexico Drug, Device and Cosmetic Act, if the prescribing
19 doctor of oriental medicine has fulfilled the requirements
20 for prescriptive authority in accordance with rules
21 promulgated by the board for the substances enumerated in
22 this paragraph; and

23 (5) the prescription or administration of
24 the following dangerous drugs or controlled substances as
25 they are defined in the New Mexico Drug, Device and Cosmetic
Act or the Controlled Substances Act, if the prescribing
doctor of oriental medicine has fulfilled the requirements

.130411.1

underscored material = new
~~[bracketed material] = delete~~

1 for extended or expanded prescriptive authority in accordance
2 with rules promulgated by the board for the substances
3 enumerated in this paragraph:

- 4 (a) sterile water;
- 5 (b) sterile saline;
- 6 (c) sarapin or its generic;
- 7 (d) caffeine;
- 8 (e) procaine;
- 9 (f) oxygen;
- 10 (g) epinephrine;
- 11 ~~[(d)]~~ (h) vapocoolants;
- 12 ~~[(e) topical application of naturally~~
13 ~~occurring]~~
- 14 (i) bioidentical hormones; and
- 15 ~~[(f)]~~ (j) any of the drugs or
16 substances enumerated in Paragraphs (2) and (4) of this
17 subsection if at any time these substances or drugs are
18 classified as dangerous drugs or controlled substances; and

19 H. "tutor" means a doctor of oriental medicine
20 with at least ten years of clinical experience who is a
21 teacher of acupuncture and oriental medicine."

22 Section 3. Section 61-14A-6 NMSA 1978 (being Laws 1993,
23 Chapter 158, Section 14, as amended) is amended to read:

24 "61-14A-6. EXEMPTIONS.--

25 A. Nothing in the Acupuncture and Oriental
Medicine Practice Act is intended to limit, interfere with or
prevent any other class of licensed health care professionals

underscored material = new
~~[bracketed material] = delete~~

1 from practicing within the scope of their [~~license as defined~~
2 ~~by each profession's New Mexico licensing statutes~~] licenses,
3 but they shall not hold themselves out to the public or any
4 private group or business by using any title or description
5 of services that includes the [~~terms~~] term acupuncture,
6 acupuncturist or oriental medicine unless they are licensed
7 under the Acupuncture and Oriental Medicine Practice Act.

8 ~~[B. Students enrolled in an educational program in~~
9 ~~acupuncture and oriental medicine approved by the board may~~
10 ~~practice acupuncture and oriental medicine under the direct~~
11 ~~supervision of a teacher at an institute or with a private~~
12 ~~tutor as part of the educational program in which they are~~
13 ~~enrolled.~~

14 ~~E.]~~ B. The Acupuncture and Oriental Medicine
15 Practice Act shall not apply to or affect the following
16 practices if the [~~individual~~] person does not hold himself
17 out as a doctor of oriental medicine or as practicing
18 acupuncture or oriental medicine:

19 (1) the administering of gratuitous services
20 in cases of emergency;

21 (2) the domestic administering of family
22 remedies;

23 (3) the counseling about or the teaching and
24 demonstration of breathing and exercise techniques;

25 (4) the counseling or teaching about diet
and nutrition;

(5) the spiritual or lifestyle counseling of

underscored material = new
~~[bracketed material] = delete~~

1 ~~[any individual]~~ a person or spiritual group or the practice
2 of the religious tenets of ~~[any]~~ a church;

3 (6) the providing of information about the
4 general usage of herbal medicines, homeopathic medicines,
5 vitamins, minerals, enzymes or glandular or nutritional
6 supplements; or

7 (7) the use of needles for diagnostic
8 purposes and the use of needles for the administration of
9 diagnostic or therapeutic substances by licensed health care
10 professionals."

11 Section 4. Section 61-14A-7 NMSA 1978 (being Laws 1993,
12 Chapter 158, Section 15) is amended to read:

13 "61-14A-7. BOARD CREATED--APPOINTMENT--OFFICERS--
14 COMPENSATION.--

15 A. ~~[There is created]~~ The "board of acupuncture
16 and oriental medicine" is created.

17 B. The board ~~[shall be]~~ is administratively
18 attached to the regulation and licensing department.

19 C. The board shall consist of seven members
20 appointed by the governor for terms of three years each.
21 Four members of the board shall be doctors of oriental
22 medicine who ~~[have been licensed to practice acupuncture and~~
23 ~~oriental medicine in New Mexico for at least five years and]~~
24 have been residents of and practiced acupuncture and oriental
25 medicine in New Mexico for at least ~~[two]~~ five years
immediately preceding the date of their appointment. Three
members shall be appointed to represent the public and shall

underscored material = new
[bracketed material] = delete

1 not have practiced acupuncture and oriental medicine in this
2 or any other jurisdiction or have any financial interest in
3 the profession regulated. No board member shall be the owner
4 of an institute offering educational programs in acupuncture
5 and oriental medicine. No more than ~~[two board members~~
6 ~~shall]~~ one board member may be from each of the following
7 categories:

8 [~~(1) owners of institutes offering~~
9 ~~educational programs in acupuncture and oriental medicine;~~

10 ~~(2)] (1) a faculty [members] member at~~
11 ~~[institutes] an institute offering educational programs in~~
12 ~~acupuncture and oriental medicine;~~

13 [~~(3) private tutors offering educational~~
14 ~~programs]~~

15 (2) a tutor in acupuncture and oriental
16 medicine; or

17 [~~(4) officers] (3) an officer or director~~
18 in a professional association of acupuncture and oriental
19 medicine.

20 D. Members of the board shall be appointed by the
21 governor for staggered terms of three years that shall be
22 made in such a manner that the terms of board members ~~[will]~~
23 expire on July 1. ~~[when]~~ A board ~~[member's term has expired,~~
24 ~~he]~~ member shall serve until his successor has been appointed
25 and qualified. Vacancies ~~[from an unexpired term]~~ shall be
filled for the remainder of the unexpired term in the same
manner as the original appointment.

underscored material = new
~~[bracketed material] = delete~~

1 E. ~~[No]~~ A board member shall not serve more than
2 two consecutive full terms, and ~~[any]~~ a board member
3 ~~[failing]~~ who fails to attend, after he has received proper
4 notice, three consecutive meetings shall be recommended for
5 removal as a board member unless excused for reasons ~~[set~~
6 ~~forth by rule]~~ established by the board.

7 F. The board shall elect annually from its
8 membership a chairman and other officers as necessary to
9 carry out its duties.

10 G. The board shall meet at least once each year
11 and at other times deemed necessary. Other meetings may be
12 called by the chairman, a majority of board members or the
13 governor. A simple majority of the board members serving
14 constitutes a quorum of the board.

15 H. Members of the board shall be reimbursed as
16 provided in the Per Diem and Mileage Act and shall receive no
17 other compensation, perquisite or allowance."

18 Section 5. Section 61-14A-8 NMSA 1978 (being Laws 1993,
19 Chapter 158, Section 16) is amended to read:

20 "61-14A-8. BOARD--POWERS.--In addition to any authority
21 provided by law, the board ~~[shall have]~~ has the power to:

22 A. enforce the provisions of the Acupuncture and
23 Oriental Medicine Practice Act;

24 B. adopt, publish and file, in accordance with the
25 Uniform Licensing Act and the State Rules Act, all rules ~~[and~~
~~regulations]~~ necessary for the implementation and enforcement
of the provisions of the Acupuncture and Oriental Medicine

underscored material = new
~~[bracketed material] = delete~~

1 Practice Act;

2 C. adopt a code of ethics;

3 D. adopt and use a seal;

4 E. inspect [~~institutes, tutorships~~] facilities of
5 approved educational programs, intern programs and the
6 offices of licensees;

7 F. adopt rules implementing continuing education
8 requirements for the purpose of protecting the health and
9 well-being of the citizens of this state and maintaining and
10 continuing informed professional knowledge and awareness;

11 G. employ [~~agents or attorneys~~] such professional
12 and clerical assistance as necessary to carry out the powers
13 and duties of the board;

14 H. issue investigative subpoenas for the purpose
15 of investigating complaints against licensees prior to the
16 issuance of a notice of contemplated action;

17 I. administer oaths and take testimony on any
18 matters within the board's jurisdiction;

19 J. conduct hearings upon charges relating to the
20 discipline of licensees, including the denial, suspension or
21 revocation of a license in accordance with the Uniform
22 Licensing Act; and

23 K. grant, deny, renew, suspend or revoke licenses
24 to practice acupuncture and oriental medicine or grant, deny,
25 renew, suspend or revoke approvals of educational programs
and intern programs in accordance with the provisions of the
Uniform Licensing Act for any cause stated in the Acupuncture

.130411.1

underscored material = new
~~[bracketed material] = delete~~

1 and Oriental Medicine Practice Act or the rules [~~and~~
2 ~~regulations~~] of the board."

3 Section 6. Section 61-14A-10 NMSA 1978 (being Laws
4 1993, Chapter 158, Section 18, as amended) is amended to
5 read:

6 "61-14A-10. REQUIREMENTS FOR LICENSING.--The board
7 shall grant a license to practice acupuncture and oriental
8 medicine to [~~any~~] a person who has:

9 A. submitted to the board:

10 [~~A.~~] (1) the completed application for
11 licensing on the form provided by the board;

12 [~~B.~~] (2) the required documentation as
13 determined by the board;

14 [~~C.~~] (3) the required fees;

15 [~~D.~~] (4) an affidavit stating that the
16 applicant has not been found guilty of unprofessional conduct
17 or incompetency;

18 [~~E.~~] (5) proof, as determined by the board,
19 that the applicant has completed a board-approved educational
20 program in acupuncture and oriental medicine as provided for
21 in the Acupuncture and Oriental Medicine Practice Act and the
22 rules of the board; and

23 [~~F.~~] (6) proof that he has passed the
24 examinations approved by the board; and

25 B. complied with any other requirements of the
board."

Section 7. Section 61-14A-11 NMSA 1978 (being Laws

underscored material = new
~~[bracketed material] = delete~~

1 1993, Chapter 158, Section 19, as amended) is amended to
2 read:

3 "61-14A-11. EXAMINATIONS.--

4 A. The board shall establish procedures to ensure
5 that examinations for licensing are offered at least once a
6 year.

7 B. The board shall establish [~~by rule~~] the
8 deadline for receipt of the application for licensing
9 examination and other rules relating to the taking and
10 retaking of licensing examinations.

11 C. The board shall establish [~~by rule~~] the passing
12 grades for its approved examinations.

13 D. The board may approve [~~by rule~~] examinations
14 that are used for national certification or other
15 examinations.

16 E. The board shall require each qualified
17 applicant to pass a written examination that includes, as a
18 minimum, the following subjects:

- 19 (1) anatomy and physiology;
20 (2) pathology;
21 (3) diagnosis;
22 (4) pharmacology; and
23 (5) principles, practices and treatment
24 techniques of acupuncture and oriental medicine.
25

F. The board may require each qualified applicant
to pass a practical examination that demonstrates his
knowledge of and skill in the application of the diagnostic

.130411.1

underscoring material = new
[bracketed material] = delete

1 and treatment techniques of acupuncture and oriental
2 medicine.

3 G. The board shall require each qualified
4 applicant to pass a written or a practical examination or
5 both in the following subjects:

- 6 (1) hygiene, sanitation and clean-needle
7 technique; and
8 (2) needle and instrument sterilization
9 techniques.

10 H. The board may require each qualified applicant
11 to pass a written examination on the state laws and rules
12 that pertain to the practice of acupuncture and oriental
13 medicine.

14 I. If English is not the primary language of the
15 applicant, the board may require that the applicant pass an
16 English proficiency examination prescribed by the board."

17 Section 8. Section 61-14A-12 NMSA 1978 (being Laws
18 1993, Chapter 158, Section 20) is amended to read:

19 "61-14A-12. REQUIREMENTS FOR TEMPORARY LICENSING.--

20 A. The board shall establish [~~by rule~~] the
21 criteria for temporary licensing of out-of-state doctors of
22 oriental medicine.

23 B. The board may grant a temporary license to
24 [~~any~~] a person who:

- 25 (1) is [~~licensed, certified, registered or~~]
legally recognized to practice acupuncture and oriental
medicine in another state [~~district or territory of the~~]

underscored material = new
~~[bracketed material] = delete~~

1 ~~United States]~~ or a foreign country or is legally recognized
2 in another state or foreign country to practice another
3 health care profession and who possesses knowledge and skills
4 that are included in the scope of practice of doctors of
5 oriental medicine;

6 (2) is under the sponsorship of and in
7 association with a licensed New Mexico doctor of oriental
8 medicine or New Mexico institute offering an educational
9 program approved by the board;

10 (3) submits the completed application for
11 temporary licensing on the form provided by the board;

12 (4) submits the required documentation,
13 including proof of adequate education and training, as
14 determined by the board;

15 (5) submits the required fee for application
16 for temporary licensing;

17 (6) submits an affidavit stating that the
18 applicant has not been found guilty of unprofessional conduct
19 or incompetency; and

20 (7) submits an affidavit from the sponsoring
21 and associating New Mexico doctor of oriental medicine or New
22 Mexico institute attesting to the qualifications of the
23 applicant and the activities the applicant will perform.

24 C. The board may grant a temporary license to
25 allow the temporary licensee to:

- (1) teach acupuncture and oriental medicine;
- (2) consult, in association with the

underscored material = new
~~[bracketed material] = delete~~

1 sponsoring doctor of oriental medicine, regarding the
2 sponsoring doctor's patients;

3 (3) perform specialized diagnostic or
4 treatment techniques in association with the sponsoring
5 doctor of oriental medicine regarding the sponsoring doctor's
6 patients;

7 (4) assist in the conducting of research in
8 acupuncture and oriental medicine; and

9 (5) assist in the implementation of new
10 techniques and technology related to acupuncture and oriental
11 medicine.

12 D. Temporary licensees may engage in only those
13 activities authorized on the temporary license.

14 E. The temporary license shall identify the
15 sponsoring and associating New Mexico doctor of oriental
16 medicine or institute.

17 F. The temporary license shall be issued for a
18 period of time established by rule; provided that temporary
19 licenses may not be issued for a period of time to exceed
20 eighteen months, including renewals.

21 G. The temporary license may be renewed upon
22 submission of:

23 (1) the completed application for temporary
24 license renewal on the form provided by the board; and

25 (2) the required fee for temporary license
renewal.

H. In the interim between regular board meetings,

underscored material = new
~~[bracketed material] = delete~~

1 whenever a qualified applicant has filed his application and
2 complied with all other requirements of this section, the
3 board's chairman or an authorized representative of the board
4 may grant an interim temporary license that will suffice
5 until the next regular licensing meeting of the board."

6 Section 9. Section 61-14A-14 NMSA 1978 (being Laws
7 1993, Chapter 158, Section 22, as amended) is amended to
8 read:

9 "61-14A-14. APPROVAL OF EDUCATIONAL PROGRAMS.--

10 A. The board shall establish by rule the criteria
11 for board approval of educational programs in acupuncture and
12 oriental medicine. For an educational program ~~in~~
13 ~~acupuncture and oriental medicine~~ to meet board approval,
14 proof shall be submitted to the board demonstrating that the
15 educational program as a minimum:

16 (1) was for a period of not less than four
17 academic years;

18 (2) included a minimum of seven hundred
19 fifty hours of supervised clinical practice;

20 (3) was taught by qualified teachers or ~~a~~
21 ~~qualified private tutor~~ tutors;

22 (4) required as a prerequisite to graduation
23 personal attendance in all classes and clinics and, as a
24 minimum, the completion of the following subjects:

- 25 (a) anatomy and physiology;
(b) pathology;
(c) diagnosis;

underscored material = new
~~[bracketed material] = delete~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- (d) pharmacology;
 - (e) oriental principles of life therapy, including diet, nutrition and counseling;
 - (f) theory and techniques of ~~[traditional and modern acupuncture and]~~ oriental medicine;
 - (g) precautions and contraindications for acupuncture treatment;
 - (h) theory and application of meridian pulse evaluation and meridian point location;
 - (i) traditional and modern methods of qi or life-energy evaluation;
 - (j) the prescription of herbal medicine and precautions and contraindications for its use;
 - (k) hygiene, sanitation and clean-needle technique;
 - (l) care and management of needling devices; and
 - (m) needle and instrument sterilization techniques; and
- (5) resulted in the presentation of a certificate or diploma after completion of all the educational program requirements.

B. All ~~[institutes and private tutors in New Mexico that offer]~~ in-state educational programs in acupuncture and oriental medicine with the intent to graduate students qualified to be applicants for licensing examination by the board shall ~~[have their educational programs annually]~~

underscored material = new
~~[bracketed material]~~ = delete

1 ~~be~~ approved annually by the board. ~~[For the educational~~
2 ~~program in acupuncture and oriental medicine to be approved~~
3 ~~by the board, the institute or private tutor]~~ The applicant
4 shall submit the following:

5 (1) the completed application for approval
6 of an educational program;

7 (2) the required documentation as determined
8 by the board;

9 (3) proof, as determined by the board, that
10 the educational requirements provided for in Subsection A of
11 this section are being met; and

12 (4) the required fee for application for
13 approval of an educational program.

14 C. ~~[Institutes and private tutors outside New~~
15 ~~Mexico that offer]~~ Out-of-state educational programs in
16 acupuncture and oriental medicine with the intent to graduate
17 students qualified to be applicants for licensing examination
18 by the board may ~~[have their educational programs annually~~
19 ~~approved]~~ apply for approval by the board. ~~[For the~~
20 ~~educational program in acupuncture and oriental medicine to~~
21 ~~be approved by the board, the institute or private tutor]~~ The
22 applicant shall submit the following:

23 (1) the completed application for approval
24 of an educational program;

25 (2) the required documentation as determined
by the board;

(3) proof, as determined by the board, that

underscored material = new
[bracketed material] = delete

1 the educational requirements provided for in Subsection A of
2 this section are being met; and

3 (4) the required fee for application for
4 approval of an educational program.

5 D. Each [~~institute and private tutor in New Mexico~~
6 ~~that offers an~~] in-state approved educational program [~~in~~
7 ~~acupuncture and oriental medicine as referred to in~~
8 ~~Subsection B of this section~~] shall renew [~~their~~] its
9 approval annually by submitting prior to the date established
10 by the board:

11 (1) the completed application for renewal of
12 approval of an educational program on the form provided by
13 the board;

14 (2) proof, as determined by the board, that
15 the educational requirements provided for in Subsection A of
16 this section are being met; and

17 (3) the required fee for application for
18 renewal of approval of an educational program.

19 E. Each [~~institute and private tutor outside New~~
20 ~~Mexico that offers an~~] out-of-state approved educational
21 program [~~in acupuncture and oriental medicine as referred to~~
22 ~~in Subsection C of this section~~] may renew [~~their~~] its
23 approval annually by submitting prior to the date established
24 by the board:

25 (1) the completed application for renewal of
approval of an educational program on the form provided by
the board;

underscored material = new
[bracketed material] = delete

1 (2) proof, as determined by the board, that
2 the educational requirements provided for in Subsection A of
3 this section are being met; and

4 (3) the required fee for application for
5 renewal of approval of an educational program.

6 F. A sixty-day grace period shall be allowed each
7 ~~[institute or private tutor]~~ educational program after the
8 end of the approval period, during which time the approval
9 may be renewed by submitting:

10 (1) the completed application for renewal of
11 approval of an educational program on the form provided by
12 the board;

13 (2) proof, as determined by the board, that
14 the educational requirements provided for in Subsection A of
15 this section are being met;

16 (3) the required fee for application for
17 renewal of approval of an educational program; and

18 (4) the required fee for late renewal of
19 approval.

20 G. ~~[Any]~~ An approval that is not renewed ~~[at]~~ by
21 the end of the grace period shall be considered expired ~~[For~~
22 ~~renewal of an expired approval, the board shall establish by~~
23 ~~rule any requirements or fees that are in addition to the fee~~
24 ~~for annual renewal of approval and may require the institute~~
25 ~~or private tutor to reapply as a new applicant],~~ and the
educational program must apply for approval to continue
offering the program."

underscored material = new
[bracketed material] = delete

1 Section 10. Section 61-14A-15 NMSA 1978 (being Laws
2 1993, Chapter 158, Section 23) is amended to read:

3 "61-14A-15. LICENSE RENEWAL.--

4 A. Each licensee shall renew his license
5 ~~[biennially]~~ annually by submitting prior to the date
6 established by the board:

7 (1) the completed application for license
8 renewal on the form provided by the board; and

9 (2) the required fee for ~~[biennial]~~ annual
10 license renewal.

11 B. The board may require proof of continuing
12 education or other proof of competency as a requirement for
13 renewal.

14 C. A sixty-day grace period shall be allowed each
15 licensee after the end of the licensing period, during which
16 time the license may be renewed by submitting:

17 (1) the completed application for license
18 renewal on the form provided by the board;

19 (2) the required fee for ~~[biennial]~~ annual
20 license renewal; and

21 (3) the required late fee ~~[for late license~~
22 ~~renewal]~~.

23 D. Any license not renewed at the end of the grace
24 period shall be considered expired and the licensee shall not
25 be eligible to practice within the state. For ~~[renewal]~~
reinstatement of an expired license within one year of the
date of renewal, the board shall establish ~~[by rule]~~ any

underscored material = new
~~[bracketed material] = delete~~

1 requirements or fees that are in addition to the fee for
2 [~~biennial~~] annual license renewal and may require the former
3 licensee to reapply as a new applicant."

4 Section 11. A new section of the Acupuncture and
5 Oriental Medicine Practice Act is enacted to read:

6 "[NEW MATERIAL] STUDENTS AND INTERNS--SUPERVISED
7 PRACTICE.--

8 A. A student enrolled in an approved educational
9 program may practice acupuncture and oriental medicine under
10 the direct supervision of a teacher or tutor as part of the
11 educational program.

12 B. The board may promulgate rules to govern the
13 postgraduate training requirements and practice of
14 acupuncture and oriental medicine by interns. The rules
15 shall include qualifications for interns and supervising
16 doctors of oriental medicine or other supervising health care
17 professionals and the allowable scope of practice for
18 interns. The board may charge a fee for approval and renewal
19 of approval of intern programs."

20 Section 12. A new section of the Acupuncture and
21 Oriental Medicine Practice Act is enacted to read:

22 "[NEW MATERIAL] EXTENDED OR EXPANDED PRESCRIPTIVE
23 AUTHORITY--CERTIFICATION.--

24 A. The board may issue certification for extended
25 prescriptive authority as defined by the board to a doctor of
oriental medicine who has submitted completed forms provided
by the board, paid the application fee for certification and

underscored material = new
[bracketed material] = delete

1 submitted proof of successful completion of additional
2 training required by rule of the board.

3 B. The board may issue certification for expanded
4 prescriptive authority only for the substances listed in this
5 section to a doctor of oriental medicine who has submitted
6 completed forms provided by the board, paid the application
7 fee for certification and submitted proof of successful
8 completion of additional training required by rule of the
9 board. The board shall adopt the rules determined by the
10 board of pharmacy for additional training required for the
11 prescription or administration of caffeine, procaine, oxygen,
12 epinephrine and bioidentical hormones. The board and the
13 board of pharmacy shall consult as appropriate."

14 Section 13. Section 61-14A-22 NMSA 1978 (being Laws
15 1993, Chapter 158, Section 30) is amended to read:

16 "61-14A-22. TERMINATION OF AGENCY LIFE--DELAYED
17 REPEAL.--The board of acupuncture and oriental medicine is
18 terminated on July 1, [~~1999~~] 2005 pursuant to the Sunset Act.
19 The board shall continue to operate according to [~~Sections~~
20 ~~61-14A-1 through 61-14A-21 NMSA 1978~~] the Acupuncture and
21 Oriental Medicine Practice Act until July 1, [~~2000~~] 2006.
22 Effective July 1, [~~2000, Sections 61-14A-1 through 61-14A-21~~
23 ~~NMSA 1978 are~~] 2006, Chapter 61, Article 14A NMSA 1978 is
24 repealed."