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SENATE BILL 463

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Gay G. Kernan

AN ACT

RELATING TO PROFESSIONAL LICENSURE; AMENDING SECTIONS OF THE
MEDICAL PRACTICE ACT TO PROVIDE FOR THE LICENSURE AND
REGULATION BY THE NEW MEXICO MEDICAL BOARD OF OSTEOPATHIC
PHYSICIANS AND OSTEOPATHIC PHYSICIAN ASSISTANTS; TRANSFERRING
PERSONNEL, RECORDS AND REFERENCES IN LAW OF THE BOARD OF
OSTEOPATHIC MEDICINE TO THE NEW MEXICO MEDICAL BOARD; REPEALING
THE OSTEOPATHIC MEDICINE ACT.

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

SECTION 1. Section 61-6-1 NMSA 1978 (being Laws 1989,
Chapter 269, Section 1, as amended) is amended to read:

"61-6-1. SHORT TITLE--PURPOSE.--

A. Chapter 61, Article 6 NMSA 1978 may be cited as
the "Medical Practice Act".

B. In the interest of the public health, safety and
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1 welfare and to protect the public from the improper,
2 unprofessional, incompetent and unlawful practice of medicine,
3 it is necessary to provide laws and rules controlling the
4 granting and use of the privilege to practice medicine and to
5 establish a New Mexico medical board to implement and enforce
6 the laws and rules.

7 C. The primary duties and obligations of the
8 [~~medical~~] board are to issue licenses to qualified physicians
9 who are medical doctors or osteopathic physicians, physician
10 assistants and anesthesiologist assistants, to discipline
11 incompetent or unprofessional physicians, physician assistants
12 or anesthesiologist assistants and to aid in the rehabilitation
13 of impaired physicians, physician assistants and
14 anesthesiologist assistants for the purpose of protecting the
15 public."

16 SECTION 2. Section 61-6-2 NMSA 1978 (being Laws 1923,
17 Chapter 44, Section 1, as amended) is amended to read:

18 "61-6-2. NEW MEXICO MEDICAL BOARD--APPOINTMENT--TERMS--
19 QUALIFICATIONS.--

20 A. There is created the "New Mexico medical board",
21 consisting of [~~nine~~] eleven members. The board shall be
22 composed of:

- 23 (1) two public members, each of whom:
 - 24 (a) is a resident of New Mexico;
 - 25 (b) has not been licensed by the board

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1 or practiced as a licensed physician; and

2 (c) has no significant financial
3 interest, direct or indirect, in the occupations regulated by
4 the board;

5 (2) one physician assistant [and] who has been
6 a licensed physician assistant and a resident of New Mexico for
7 at least five years immediately preceding the date of
8 appointment;

9 (3) six reputable licensed physicians who are
10 medical doctors of known ability, who are graduates of medical
11 colleges or schools in good standing and who have been licensed
12 physicians in and bona fide residents of New Mexico for a
13 period of five years immediately preceding the date of their
14 appointment [~~The physician assistant shall have been a licensed~~
15 ~~physician assistant and a resident of New Mexico for at least~~
16 ~~five years immediately preceding the date of appointment.~~

17 ~~Public members of the board shall be residents of New Mexico,~~
18 ~~shall not have been licensed by the board or have practiced as~~
19 ~~physicians and shall have no significant financial interest,~~
20 ~~direct or indirect, in the occupation regulated]; and~~

21 (4) two reputable licensed physicians who are
22 osteopathic physicians of known ability, who are graduates of
23 colleges of osteopathic medicine in good standing and who have
24 been licensed physicians in and bona fide residents of New
25 Mexico for a period of five years immediately preceding the

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1 date of their appointment.

2 B. The governor shall appoint the licensed
3 physician members who are medical doctors from a list of names
4 submitted to the governor by the New Mexico medical society or
5 its authorized governing body or council. The list shall
6 contain five names of qualified ~~[physicians]~~ medical doctors
7 for each ~~[physician]~~ medical doctor member to be appointed.
8 ~~[Physician member vacancies]~~ The governor shall appoint board
9 members who are osteopathic physicians from a list of five
10 qualified osteopathic physicians that the New Mexico
11 osteopathic medical association or its authorized governing
12 body or council approves. Vacancies among medical doctor and
13 osteopathic physician members shall be filled in the same
14 manner as initial appointments are made pursuant to this
15 subsection.

16 C. The governor shall appoint the physician
17 assistant member from a list of five names submitted to the
18 governor by either:

19 (1) the New Mexico academy of physician
20 assistants or its authorized governing body or council ~~[The~~
21 ~~list shall contain five names of qualified physician~~
22 ~~assistants]; or~~

23 (2) the New Mexico osteopathic medical
24 association or its authorized governing body or council.

25 D. Members shall be appointed to four-year terms,

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1 staggered so that not more than three terms expire in a year.
2 All board members shall hold office until their successors are
3 appointed and qualified.

4 E. A board member failing to attend three
5 consecutive meetings, either regular or special, shall
6 automatically be removed as a member of the board unless
7 excused from attendance by the board for good cause shown."

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

10 "61-6-5. DUTIES AND POWERS.--The board shall:

11 A. enforce and administer the provisions of the
12 Medical Practice Act, the Physician Assistant Act, the
13 Anesthesiologist Assistants Act, the Genetic Counseling Act,
14 the Impaired Health Care Provider Act, the Polysomnography
15 Practice Act and the Naprapathic Practice Act;

16 B. adopt, publish and file, in accordance with the
17 Uniform Licensing Act and the State Rules Act, all rules for
18 the implementation and enforcement of the provisions of the
19 Medical Practice Act, the Physician Assistant Act, the
20 Anesthesiologist Assistants Act, the Genetic Counseling Act,
21 the Impaired Health Care Provider Act, the Polysomnography
22 Practice Act and the Naprapathic Practice Act;

23 C. adopt and use a seal;

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

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1 E. take testimony on matters within the board's
2 jurisdiction;

3 F. keep an accurate record of all its meetings,
4 receipts and disbursements;

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

10 H. grant, deny, review, suspend and revoke licenses
11 to practice medicine and censure, reprimand, fine and place on
12 probation and stipulation licensees and applicants in
13 accordance with the Uniform Licensing Act for any cause stated
14 in the Medical Practice Act, the Impaired Health Care Provider
15 Act and the Naprapathic Practice Act;

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

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

21 K. have the authority to hire a competent attorney
22 to give advice and counsel in regard to any matter connected
23 with the duties of the board, to represent the board in any
24 legal proceedings and to aid in the enforcement of the laws in
25 relation to the medical profession and to fix the compensation

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1 to be paid to such attorney; provided, however, that [~~such~~] the
2 attorney shall be compensated from the funds of the board;

3 L. establish continuing medical education
4 requirements for licensed physicians and continuing education
5 requirements for physician assistants;

6 M. establish committees as it deems necessary for
7 carrying on its business;

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

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

14 P. have the authority to waive licensure fees for
15 the purpose of [~~medical-doctor~~] physician recruitment and
16 retention."

17 SECTION 4. Section 61-6-6 NMSA 1978 (being Laws 1973,
18 Chapter 361, Section 1, as amended) is amended to read:

19 "61-6-6. DEFINITIONS.--As used in Chapter 61, Article 6
20 NMSA 1978:

21 A. "allopathic medicine" means the complete system
22 or school of traditional western medicine as taught and
23 practiced in medical colleges and schools and practiced in
24 accordance with board rules;

25 [~~A.~~] B. "approved postgraduate medical training

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1 program" means a program in allopathic medicine approved by the
2 accrediting council on graduate medical education of the
3 American medical association or by the board;

4 C. "approved postgraduate osteopathic training
5 program" means a program in osteopathic medicine approved by
6 the American osteopathic association or the accreditation
7 council for graduate medical education;

8 [B-] D. "board" means the New Mexico medical board;

9 E. "college of osteopathic medicine in good
10 standing" means a college of osteopathic medicine accredited by
11 the commission on osteopathic college accreditation and
12 recognized by the American osteopathic association;

13 [G-] F. "licensed physician" means [a] an
14 individual licensed to engage in the practice of medicine in
15 the state as a medical doctor [~~licensed under the Medical~~
16 Practice Act to practice medicine in New Mexico] or as an
17 osteopathic physician;

18 [D-] G. "licensee" means a medical doctor,
19 osteopathic physician, physician assistant, polysomnographic
20 technologist, anesthesiologist assistant or naprapath licensed
21 by the board to practice in New Mexico;

22 [E-] H. "medical college or school in good
23 standing" means a board-approved medical college or school that
24 has as high a standard as that required by the association of
25 American medical colleges and the council on medical education

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1 of the American medical association;

2 I. "medical doctor" means a licensed physician who
3 has met the requirements for authorization to engage in the
4 practice of allopathic medicine and licensure by the board as a
5 medical doctor established pursuant to the Medical Practice
6 Act;

7 [~~F-~~] J. "medical student" means a student enrolled
8 in a board-approved medical college or school in good standing
9 or a college of osteopathic medicine in good standing;

10 K. "osteopathic medicine" means the complete system
11 or school of osteopathic medicine as taught and practiced in
12 the accredited colleges of osteopathic medicine and practiced
13 in accordance with board rules;

14 L. "osteopathic physician" means a licensed
15 physician who has met the requirements for authorization to
16 engage in the practice of osteopathic medicine in New Mexico
17 and licensure as an osteopathic physician pursuant to the
18 Medical Practice Act or, previously, pursuant to the former
19 Osteopathic Medicine Act;

20 M. "physician" means a medical doctor or an
21 osteopathic physician licensed in this state or in another
22 jurisdiction;

23 [~~G-~~] N. "physician assistant" means a health
24 professional who is licensed by the board to practice as a
25 physician assistant or licensed previously as an osteopathic

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1 physician assistant by the board of osteopathic medicine
2 pursuant to the former Osteopathic Medicine Act, and who
3 provides services to patients under the supervision and
4 direction of a licensed physician;

5 [H.] O. "intern" means a first-year postgraduate
6 student upon whom has been conferred:

7 (1) a degree of doctor of medicine and surgery
8 or equivalent degree [~~has been conferred~~] by a medical college
9 or school in good standing; or

10 (2) a degree of osteopathic physician or
11 equivalent degree by a college of osteopathic medicine in good
12 standing;

13 [I.] P. "resident" means a graduate of a medical
14 college or medical school in good standing or a graduate of a
15 college of osteopathic medicine in good standing who is in
16 training in a board-approved and accredited residency training
17 program in a hospital or facility affiliated with an approved
18 hospital and who has been appointed to the position of
19 "resident" or "fellow" for the purpose of postgraduate medical
20 training;

21 [J.] Q. "the practice of medicine" means the
22 practice of either allopathic medicine in accordance with
23 licensure as a medical doctor or osteopathic medicine in
24 accordance with licensure as an osteopathic physician and
25 consists of:

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1 (1) advertising, holding out to the public or
2 representing in any manner that one is authorized to practice
3 medicine in this state;

4 (2) offering or undertaking to administer,
5 dispense or prescribe a drug or medicine for the use of another
6 person, except as authorized pursuant to a professional or
7 occupational licensing statute set forth in Chapter 61 NMSA
8 1978;

9 (3) offering or undertaking to give or
10 administer, dispense or prescribe a drug or medicine for the
11 use of another person, except as directed by a licensed
12 physician;

13 (4) offering or undertaking to perform an
14 operation or procedure upon a person;

15 (5) offering or undertaking to diagnose,
16 correct or treat in any manner or by any means, methods,
17 devices or instrumentalities any disease, illness, pain, wound,
18 fracture, infirmity, deformity, defect or abnormal physical or
19 mental condition of a person;

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

25 (7) acting as the representative or agent of a

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1 person in doing any of the things listed in this subsection;

2 ~~[K-]~~ R. "the practice of medicine across state
3 lines" means:

4 (1) the rendering of a written or otherwise
5 documented medical opinion concerning diagnosis or treatment of
6 a patient within this state by a physician located outside this
7 state as a result of transmission of individual patient data by
8 electronic, telephonic or other means from within this state to
9 the physician or the physician's agent; or

10 (2) the rendering of treatment to a patient
11 within this state by a physician located outside this state as
12 a result of transmission of individual patient data by
13 electronic, telephonic or other means from within this state to
14 the physician or the physician's agent;

15 ~~[L-]~~ S. "sexual contact" means touching the primary
16 genital area, groin, anus, buttocks or breast of a patient or
17 allowing a patient to touch another's primary genital area,
18 groin, anus, buttocks or breast in a manner that is commonly
19 recognized as outside the scope of acceptable medical practice;

20 ~~[M-]~~ T. "sexual penetration" means sexual
21 intercourse, cunnilingus, fellatio or anal intercourse, whether
22 or not there is any emission, or introducing any object into
23 the genital or anal openings of another in a manner that is
24 commonly recognized as outside the scope of acceptable medical
25 practice; and

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1 [~~N-~~] U. "United States" means the fifty states, its
2 territories and possessions and the District of Columbia."

3 SECTION 5. Section 61-6-13 NMSA 1978 (being Laws 1989,
4 Chapter 269, Section 9, as amended) is amended to read:

5 "61-6-13. MEDICAL DOCTORS--LICENSURE BY ENDORSEMENT.--

6 A. The board may grant a license to practice as a
7 medical doctor by endorsement to an applicant who:

8 (1) has graduated from an accredited United
9 States or Canadian medical school;

10 (2) is board certified in a specialty
11 recognized by the American board of medical specialties;

12 (3) has been a licensed physician in
13 the United States or Canada and has [~~practiced~~] engaged in the
14 practice of medicine as a medical doctor in the United States
15 or Canada immediately preceding the application for at least
16 three years;

17 (4) holds an unrestricted license to practice
18 as a medical doctor in another state or Canada; and

19 (5) was not the subject of a disciplinary
20 action in a state or province.

21 B. The board may grant a license by endorsement to
22 an applicant who:

23 (1) has graduated from a medical school
24 located outside the United States or Canada;

25 (2) is of good moral character;

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1 (3) is in compliance with the United States
2 immigration laws;

3 (4) is board certified in a specialty
4 recognized by the American board of medical specialties;

5 (5) has been a licensed physician in the
6 United States or Canada and has ~~[practiced]~~ engaged in the
7 practice of medicine as a medical doctor in the United States
8 or Canada immediately preceding the application for at least
9 three years;

10 (6) holds an unrestricted license to practice
11 as a medical doctor in another state or Canada; and

12 (7) was not the subject of disciplinary action
13 in a state or province.

14 C. An endorsement provided pursuant to this section
15 shall certify that the applicant has passed an examination that
16 meets with board approval and that the applicant is in good
17 standing in that jurisdiction. In cases when the applicant is
18 board certified, has not been the subject of disciplinary
19 action that would be reportable to the national practitioner
20 data bank or the healthcare integrity and protection data bank
21 and has unusual skills and experience not generally available
22 in this state, and patients residing in this state have a
23 significant need for such skills and experience, the board may
24 waive a requirement imposing time limits for examination
25 completion that are different from requirements of the state

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1 where the applicant is licensed.

2 D. An applicant for licensure under this section
3 may be required to personally appear before the board or a
4 designated agent for an interview.

5 E. An applicant for licensure under this section
6 shall pay an application fee as provided in Section 61-6-19
7 NMSA 1978.

8 F. The board may require fingerprints and other
9 information necessary for a state and national criminal
10 background check."

11 SECTION 6. Section 61-6-14 NMSA 1978 (being Laws 1953,
12 Chapter 48, Section 2, as amended) is amended to read:

13 "61-6-14. ORGANIZED YOUTH CAMP OR SCHOOL TEMPORARY
14 LICENSES AND TEMPORARY LICENSES FOR OUT-OF-STATE
15 PHYSICIANS.--

16 A. The secretary-treasurer of the board or the
17 board's designee may, either by examination or endorsement,
18 approve a temporary license to [~~practice medicine and surgery~~]
19 engage in the practice of medicine to an applicant qualified to
20 engage in the practice of medicine [~~and surgery~~] in this state
21 who will be temporarily in attendance at an organized youth
22 camp or school; provided that:

23 (1) the practice shall be confined to
24 enrollees, leaders and employees of the camp or school;

25 (2) the temporary license shall be issued for

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1 a period not to exceed three months from date of issuance; and

2 (3) the temporary license may be issued upon
3 written application of the applicant, accompanied by such proof
4 of the qualifications of the applicant as specified by board
5 rule.

6 B. The secretary-treasurer of the board or the
7 board's designee may approve a temporary license to [~~practice~~
8 ~~medicine and surgery~~] engage in the practice of medicine under
9 the supervision of a licensed physician to an applicant who is
10 licensed to practice medicine in another state, territory of
11 the United States or another country and who is qualified to
12 [~~practice medicine and surgery~~] engage in the practice of
13 medicine in this state. The following provisions shall apply:

14 (1) the temporary license may be issued upon
15 written application of the applicant, accompanied by proof of
16 qualifications as specified by rule of the board. A temporary
17 license may be granted to allow the applicant to assist in
18 teaching, conducting research, performing specialized
19 diagnostic and treatment procedures, implementing new
20 technology and for physician educational purposes. A licensee
21 may engage in only the activities specified on the temporary
22 license, and the temporary license shall identify the licensed
23 physician who will supervise the applicant during the time the
24 applicant [~~practices~~] engages in the practice of medicine in
25 New Mexico. The supervising licensed physician shall submit an

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1 affidavit attesting to the qualifications of the applicant and
2 activities the applicant will perform; and

3 (2) the temporary license shall be issued for
4 a period not to exceed three months from date of issuance and
5 may be renewed upon application and payment of fees as provided
6 in Section 61-6-19 NMSA 1978.

7 C. The application for a temporary license under
8 this section shall be accompanied by a license fee as provided
9 in Section 61-6-19 NMSA 1978."

10 SECTION 7. Section 61-6-17 NMSA 1978 (being Laws 1973,
11 Chapter 361, Section 8, as amended) is amended to read:

12 "61-6-17. EXCEPTIONS TO ACT.--The Medical Practice Act
13 shall not apply to or affect:

- 14 A. gratuitous services rendered in cases of
15 emergency;
- 16 B. the domestic administration of family remedies;
- 17 C. the practice of midwifery as regulated in this
18 state;
- 19 D. commissioned medical officers of the armed
20 forces of the United States and medical officers of the United
21 States public health service or the veterans administration of
22 the United States in the discharge of their official duties or
23 within federally controlled facilities; provided that such
24 persons who hold medical licenses in New Mexico shall be
25 subject to the provisions of the Medical Practice Act and

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1 provided that all such persons shall be fully licensed to
2 practice medicine in one or more jurisdictions of the United
3 States;

4 E. the practice of medicine by a physician,
5 unlicensed in New Mexico, who performs emergency medical
6 procedures in air or ground transportation on a patient from
7 inside of New Mexico to another state or back; provided that
8 the physician is duly licensed in that state;

9 F. the practice, as defined and limited under their
10 respective licensing laws, of:

11 [~~(1)~~] ~~osteopathy~~;

12 ~~(2)~~] (1) dentistry;

13 [~~(3)~~] (2) podiatry;

14 [~~(4)~~] (3) nursing;

15 [~~(5)~~] (4) optometry;

16 [~~(6)~~] (5) psychology;

17 [~~(7)~~] (6) chiropractic;

18 [~~(8)~~] (7) pharmacy;

19 [~~(9)~~] (8) acupuncture and oriental medicine;

20 or

21 [~~(10)~~] (9) physical therapy;

22 G. an act, task or function performed by a
23 physician assistant at the direction of and under the
24 supervision of a licensed physician, when:

25 (1) the physician assistant is currently

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1 licensed by the board;

2 (2) the act, task or function is performed at
3 the direction of and under the supervision of a licensed
4 physician in accordance with rules promulgated by the board;
5 and

6 (3) the acts of the physician assistant are
7 within the scope of duties assigned or delegated by the
8 supervising licensed physician and the acts are within the
9 scope of the assistant's training;

10 H. an act, task or function of laboratory
11 technicians or technologists, x-ray technicians, nurse
12 practitioners, medical or surgical assistants or other
13 technicians or qualified persons permitted by law or
14 established by custom as part of the duties delegated to them
15 by:

16 (1) a licensed physician or a hospital, clinic
17 or institution licensed or approved by the public health
18 division of the department of health or an agency of the
19 federal government; or

20 (2) a health care program operated or financed
21 by an agency of the state or federal government;

22 I. a properly trained medical or surgical assistant
23 or technician or professional licensee performing under the
24 physician's employment and direct supervision or a visiting
25 physician or surgeon operating under the physician's direct

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1 supervision a medical act that a reasonable and prudent
2 physician would find within the scope of sound medical judgment
3 to delegate if, in the opinion of the delegating physician, the
4 act can be properly and safely performed in its customary
5 manner and if the person does not hold ~~himself~~ the person's
6 own self out to the public as being authorized to practice
7 medicine in New Mexico. The delegating physician shall remain
8 responsible for the medical acts of the person performing the
9 delegated medical acts;

10 J. the practice of the religious tenets of a church
11 in the ministrations to the sick or suffering by mental or
12 spiritual means as provided by law; provided that the Medical
13 Practice Act shall not be construed to exempt a person from the
14 operation or enforcement of the sanitary and quarantine laws of
15 the state;

16 K. the acts of a physician licensed under the laws
17 of another state of the United States who is the treating
18 physician of a patient and orders home health or hospice
19 services for a resident of New Mexico to be delivered by a home
20 and community support services agency licensed in this state;
21 provided that a change in the condition of the patient shall be
22 physically reevaluated by the treating physician in the
23 treating physician's jurisdiction or by a licensed New Mexico
24 physician;

25 L. a physician licensed to practice under the laws

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1 of another state who acts as a consultant to a New Mexico-
2 licensed physician on an irregular or infrequent basis, as
3 defined by rule of the board; and

4 M. a physician who engages in the informal practice
5 of medicine across state lines without compensation or
6 expectation of compensation; provided that the practice of
7 medicine across state lines conducted within the parameters of
8 a contractual relationship shall not be considered informal and
9 is subject to licensure and rule by the board."

10 SECTION 8. Section 61-6-18 NMSA 1978 (being Laws 1989,
11 Chapter 269, Section 14, as amended) is amended to read:

12 "61-6-18. MEDICAL STUDENTS--INTERNS--RESIDENTS.--

13 A. Nothing in the Medical Practice Act shall
14 prevent a medical student properly registered or enrolled in a
15 medical college or school in good standing or a college of
16 osteopathic medicine in good standing from diagnosing or
17 treating the sick or afflicted; provided that the medical
18 student does not receive compensation for services and such
19 services are rendered under the supervision of the school
20 faculty as part of the student's course of study.

21 B. Any intern or resident who is appointed in [~~a~~
22 ~~board-approved residency training program~~] an approved
23 postgraduate medical training program or an approved
24 postgraduate osteopathic training program may pursue such
25 training after obtaining a postgraduate medical training

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1 license or a postgraduate osteopathic training license from the
2 board, respectively. The board may adopt by rule specific
3 education or examination requirements for a postgraduate
4 training license.

5 C. Any person serving in the assigned rotations and
6 performing the assigned duties in a board-approved residency
7 training program accredited in New Mexico may do so for an
8 aggregate period not to exceed eight years or completion of the
9 residency, whichever is shorter.

10 D. The board may require any applicant for a
11 postgraduate medical training license or postgraduate
12 osteopathic training license required in Subsections B and C of
13 this section to personally appear before the board or a
14 designated member of the board for an interview.

15 E. Every applicant for a postgraduate training
16 license under this section shall pay the fees required by
17 Section 61-6-19 NMSA 1978.

18 F. Postgraduate medical training licenses and
19 postgraduate osteopathic training licenses shall be renewed
20 annually and shall be effective during each year or part of a
21 year of approved postgraduate medical training or approved
22 postgraduate osteopathic training, respectively."

23 SECTION 9. Section 61-6-18.1 NMSA 1978 (being Laws 1994,
24 Chapter 80, Section 10, as amended) is amended to read:

25 "61-6-18.1. PUBLIC SERVICE LICENSE.--

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1 A. ~~[Applicants]~~ An applicant for a public service
2 license to practice as a medical doctor shall meet all
3 requirements for licensure and shall:

4 (1) be enrolled in ~~[a board-approved~~
5 ~~residency]~~ an approved postgraduate medical training program
6 either in New Mexico or in another jurisdiction;

7 (2) obtain written approval from the approved
8 postgraduate medical training program director of the applicant
9 to pursue a public service practice opportunity outside the
10 ~~[residency]~~ training program; and

11 (3) satisfy other reasonable requirements
12 imposed by the board.

13 B. An applicant for a public service license to
14 practice as an osteopathic physician shall meet all
15 requirements for licensure and shall:

16 (1) be enrolled in an approved postgraduate
17 osteopathic training program either in New Mexico or in another
18 jurisdiction;

19 (2) obtain written approval from the approved
20 postgraduate osteopathic training program director of the
21 applicant to pursue a public service practice opportunity
22 outside the training program; and

23 (3) satisfy other reasonable requirements
24 imposed by the board.

25 ~~[B-]~~ C. A physician with one year of postdoctoral

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1 training may apply for a public service license to practice
2 under the direct supervision of a licensed physician or with
3 immediate access to a licensed physician by electronic means
4 when the public service physician is employed in a medically
5 underserved area.

6 ~~[G-]~~ D. A public service license shall expire on
7 September 1 of each year and may be renewed by the board.

8 ~~[D-]~~ E. An applicant for a public service license
9 shall pay the required fees set forth in Section 61-6-19 NMSA
10 1978."

11 **SECTION 10.** Section 61-6-19 NMSA 1978 (being Laws 1989,
12 Chapter 269, Section 15, as amended) is amended to read:

13 "61-6-19. FEES.--

14 A. The board shall impose the following fees:

15 (1) an application fee not to exceed four
16 hundred dollars (\$400) for licensure by endorsement as provided
17 in Section 61-6-13 NMSA 1978 or Section 14 of this 2017 act;

18 (2) an application fee not to exceed four
19 hundred dollars (\$400) for licensure by examination as provided
20 in Section 61-6-11 NMSA 1978;

21 (3) a triennial renewal fee not to exceed four
22 hundred fifty dollars (\$450);

23 (4) a fee of twenty-five dollars (\$25.00) for
24 placing a licensed physician's license or a physician
25 assistant's license on inactive status;

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1 (5) a late fee not to exceed one hundred
2 dollars (\$100) for licensed physicians who renew their
3 [~~license~~] licenses within forty-five days after the required
4 renewal date;

5 (6) a late fee not to exceed two hundred
6 dollars (\$200) for licensed physicians who renew their licenses
7 between forty-six and ninety days after the required renewal
8 date;

9 (7) a reinstatement fee not to exceed six
10 hundred dollars (\$600) for reinstatement of a revoked,
11 suspended or inactive license;

12 (8) a reasonable administrative fee for
13 verification and duplication of license or registration and
14 copying of records;

15 (9) a reasonable publication fee for the
16 purchase of a publication containing the names of all
17 practitioners licensed under the Medical Practice Act;

18 (10) an impaired physician fee not to exceed
19 one hundred fifty dollars (\$150) for a three-year period;

20 (11) an interim license fee not to exceed one
21 hundred dollars (\$100);

22 (12) a temporary license fee not to exceed one
23 hundred dollars (\$100);

24 (13) a postgraduate training license fee not
25 to exceed fifty dollars (\$50.00) annually;

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1 (14) an application fee not to exceed one
2 hundred fifty dollars (\$150) for physician assistants applying
3 for initial licensure;

4 (15) a licensure fee not to exceed one hundred
5 fifty dollars (\$150) for physician assistants biennial
6 licensing and registration of supervising licensed physician;

7 (16) a late fee not to exceed fifty dollars
8 (\$50.00) for physician assistants who renew their licensure
9 within forty-five days after the required renewal date;

10 (17) a late fee not to exceed seventy-five
11 dollars (\$75.00) for physician assistants who renew their
12 licensure between forty-six and ninety days after the required
13 renewal date;

14 (18) a reinstatement fee not to exceed one
15 hundred dollars (\$100) for physician assistants who reinstate
16 an expired license;

17 (19) a processing fee not to exceed fifty
18 dollars (\$50.00) for each change of a supervising licensed
19 physician for a physician assistant;

20 (20) a fee not to exceed three hundred dollars
21 (\$300) annually for a physician supervising a clinical
22 pharmacist;

23 (21) an application and renewal fee for a
24 telemedicine license not to exceed four hundred dollars (\$400);

25 (22) a reasonable administrative fee, not to

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1 exceed the current cost of application for a license, that may
2 be charged for reprocessing applications and renewals that
3 include minor but significant errors and that would otherwise
4 be subject to investigation and possible disciplinary action;
5 and

6 (23) a reasonable fee as established by the
7 department of public safety for nationwide and statewide
8 criminal history screening of applicants and licensees.

9 B. All fees are nonrefundable and shall be used by
10 the board to carry out its duties efficiently."

11 SECTION 11. Section 61-6-20 NMSA 1978 (being Laws 1923,
12 Chapter 44, Section 9, as amended) is amended to read:

13 "61-6-20. PRACTICING WITHOUT LICENSE--PENALTY.--

14 A. ~~[Any]~~ A person who ~~[practices]~~ engages in the
15 practice of medicine or who attempts to engage in the practice
16 of medicine without first complying with the provisions of the
17 Medical Practice Act and without being the holder of a license
18 entitling ~~[him]~~ the person to engage in the practice of
19 medicine in New Mexico is guilty of a fourth degree felony.

20 B. ~~[Any]~~ A person who practices medicine across
21 state lines or who attempts to practice medicine across state
22 lines without first complying with the provisions of the
23 Medical Practice Act and without being the holder of a
24 telemedicine license entitling ~~[him]~~ the person to practice
25 medicine across state lines is guilty of a fourth degree

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1 felony.

2 C. ~~[Any]~~ A person convicted pursuant to Subsection
3 A or B of this section shall be sentenced under the provisions
4 of the Criminal Sentencing Act to imprisonment for a definite
5 period not to exceed eighteen months and, in the discretion of
6 the sentencing court, to a fine not to exceed five thousand
7 dollars (\$5,000), or both. Each occurrence of ~~[practicing]~~
8 engaging in the practice of medicine or attempting to engage in
9 the practice of medicine without complying with the Medical
10 Practice Act shall be a separate violation."

11 SECTION 12. Section 61-6-26 NMSA 1978 (being Laws 1989,
12 Chapter 269, Section 22, as amended) is repealed and a new
13 Section 61-6-26 NMSA 1978 is enacted to read:

14 "61-6-26. [NEW MATERIAL] LICENSED PHYSICIANS--TRIENNIAL
15 RENEWAL FEES.--The board shall adopt and promulgate rules to
16 provide that, every three years, each licensed physician shall
17 apply for a certificate of triennial renewal of license for the
18 ensuing three years. The rules shall establish a time line and
19 fees for timely renewal and for late renewal of licensure.
20 Rules adopted and promulgated pursuant to this section may
21 provide for the suspension of licensure when a licensed
22 physician fails to renew in accordance with the time lines or
23 payment of fees in accordance with board rules."

24 SECTION 13. A new section of the Medical Practice Act is
25 enacted to read:

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1 "[NEW MATERIAL] OSTEOPATHIC PHYSICIANS--LICENSURE--
2 REQUIREMENTS.--

3 A. The board may consider for licensure as an
4 osteopathic physician an individual who:

5 (1) is a graduate of a school of osteopathic
6 medicine accredited by the commission on osteopathic college
7 accreditation and recognized by the American osteopathic
8 association;

9 (2) has successfully passed all three levels
10 of the comprehensive osteopathic medical licensing examination,
11 its predecessor examination or the United States medical
12 licensing examination; provided that the board shall not grant
13 a license to an applicant who has not passed the final level of
14 the respective examination within seven years of having
15 successfully passed the first level of that examination;

16 (3) provides evidence to the board of having
17 completed at least two years of a board-approved nationally
18 accredited postgraduate training program; provided that:

19 (a) an osteopathic physician who has
20 been licensed in this state or another state of the United
21 States before July 1, 2016 shall have completed at least one
22 year of postgraduate training approved by the American
23 osteopathic association or the accreditation council for
24 graduate medical education; and

25 (b) an applicant who has not completed

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1 two years of an approved postgraduate osteopathic training
2 program, but who otherwise meets all other licensing
3 requirements, may present evidence to the board of the
4 applicant's other professional experience for consideration by
5 the board in lieu of the approved postgraduate program; and

6 (4) makes an application in accordance with
7 board rules and pays the fees required pursuant to Section
8 61-6-19 NMSA 1978.

9 B. As a condition of licensure, the board may
10 require an applicant for licensure to:

11 (1) appear personally before the board or its
12 designated agent for an interview; or

13 (2) be fingerprinted and supply any other
14 information necessary to obtain a state or national criminal
15 background check; provided that an applicant shall pay any fees
16 for a criminal background check directly to the screening
17 entity that performs the check."

18 SECTION 14. A new section of the Medical Practice Act is
19 enacted to read:

20 "[NEW MATERIAL] OSTEOPATHIC PHYSICIANS--LICENSURE BY
21 ENDORSEMENT.--

22 A. The board may grant a license to practice as an
23 osteopathic physician by endorsement to an applicant who:

24 (1) is accredited by the commission on
25 osteopathic college accreditation and recognized by the

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1 American osteopathic association;

2 (2) has been licensed as an osteopathic
3 physician in the United States or Canada and has practiced
4 osteopathic medicine in the United States or Canada immediately
5 preceding the application for at least three years;

6 (3) holds an unrestricted license to practice
7 as an osteopathic physician in another state or Canada; and

8 (4) was not the subject of a disciplinary
9 action in a state or province.

10 B. The board may grant a license by endorsement to
11 an applicant who:

12 (1) has graduated from a school of osteopathic
13 medicine located outside the United States or Canada;

14 (2) is of good moral character;

15 (3) is in compliance with the United States
16 immigration laws;

17 (4) has been a licensed osteopathic physician
18 in the United States or Canada and has practiced osteopathic
19 medicine in the United States or Canada immediately preceding
20 the application for at least three years;

21 (5) holds an unrestricted license in another
22 state or Canada; and

23 (6) was not the subject of disciplinary action
24 in a state or province.

25 C. An endorsement provided pursuant to this section

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1 shall certify that the applicant has passed an examination that
2 meets with board approval and that the applicant is in good
3 standing in that jurisdiction. In cases when the applicant is
4 board-certified, has not been the subject of disciplinary
5 action that would be reportable to the national practitioner
6 data bank or the healthcare integrity and protection data bank
7 and has unusual skills and experience not generally available
8 in this state, and patients residing in this state have a
9 significant need for such skills and experience, the board may
10 waive a requirement imposing time limits for examination
11 completion that are different from requirements of the state
12 where the applicant is licensed.

13 D. The board may require an applicant for licensure
14 under this section to personally appear before the board or a
15 designated agent for an interview.

16 E. An applicant for licensure under this section
17 shall pay an application fee as provided in Section 61-6-19
18 NMSA 1978.

19 F. The board may require fingerprints and other
20 information necessary for a state and national criminal
21 background check."

22 SECTION 15. A new section of the Medical Practice Act is
23 enacted to read:

24 "[NEW MATERIAL] OSTEOPATHIC PHYSICIAN LICENSURE--
25 EXAMINATION.--The examination of those who desire to be

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1 licensed by the board as osteopathic physicians shall embrace
2 those general subjects and topics, including:

- 3 A. anatomy;
- 4 B. chemistry;
- 5 C. physiology;
- 6 D. pathology;
- 7 E. preventive medicine;
- 8 F. diagnosis;
- 9 G. toxicology;
- 10 H. therapeutics;
- 11 I. surgery;
- 12 J. gynecology;
- 13 K. obstetrics;
- 14 L. medical jurisprudence; and
- 15 M. practice of osteopathic medicine, a knowledge of

16 which is commonly and generally required of candidates for the
17 degree of doctor of osteopathic medicine by a standard
18 osteopathic college in the United States."

19 SECTION 16. TEMPORARY PROVISION--BOARD OF OSTEOPATHIC
20 MEDICINE--TERMINATION OF AGENCY LIFE--TRANSFER OF CONTRACTUAL
21 OBLIGATIONS--TRANSFER OF PERSONNEL AND RECORDS--REFERENCES IN
22 LAW.--Effective July 1, 2017:

- 23 A. the board of osteopathic medicine is terminated;
 - 24 B. one and one-half full-time-equivalent staff
- 25 positions are transferred from the board of osteopathic

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1 medicine to the New Mexico medical board;

2 C. pending cases, legal actions, appeals and other
3 legal proceedings and all pending administrative proceedings
4 that involve the board of osteopathic medicine shall be
5 unaffected and shall continue in the name of the New Mexico
6 medical board;

7 D. orders and other official acts of the board of
8 osteopathic medicine shall continue in effect until amended,
9 replaced or repealed by the New Mexico medical board;

10 E. references in law, orders and other official
11 acts to the board of osteopathic medicine shall be deemed to be
12 references to the New Mexico medical board;

13 F. contractual obligations of the board of
14 osteopathic medicine are binding on the New Mexico medical
15 board;

16 G. all records belonging to the board of
17 osteopathic medicine are transferred to the New Mexico medical
18 board; and

19 H. any license that the board of osteopathic
20 medicine has issued shall be deemed to have been issued by the
21 New Mexico medical board and subject to New Mexico medical
22 board regulation in accordance with the Medical Practice Act
23 and New Mexico medical board rules.

24 SECTION 17. REPEAL.--Sections 61-10-1.1 through 61-10-8,
25 61-10-10 through 61-10-12 and 61-10-14 through 61-10-22 NMSA

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1 1978 (being Laws 2016, Chapter 90, Sections 1 and 2, Laws 1974,
2 Chapter 78, Section 16, Laws 1933, Chapter 117, Sections 2 and
3 3, Laws 2016, Chapter 90, Sections 5, 21 and 6 through 8, Laws
4 1933, Chapter 117, Sections 6, 8 and 9, Laws 2016, Chapter 90,
5 Sections 19 and 22 through 25, Laws 1933, Chapter 117, Sections
6 10 and 12, Laws 2016, Chapter 90, Sections 12 and 20, Laws
7 1933, Chapter 117, Section 14, Laws 2016, Chapter 90, Section
8 18, Laws 1933, Chapter 117, Sections 15 and 16, Laws 1971,
9 Chapter 140, Sections 1 and 2, Laws 1945, Chapter 79, Section 7
10 and Laws 1979, Chapter 36, Section 2, as amended) are repealed.

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