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AN ACT

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

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

SECTION 1. Section 61-6-5 NMSA 1978 (being Laws 1973, Chapter 361, Section 2, as amended) is amended to read:

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

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

1 B. promulgate, in accordance with the State Rules
2 Act, all rules for the implementation and enforcement of the
3 provisions of the Medical Practice Act, the Physician
4 Assistant Act, the Anesthesiologist Assistants Act, the
5 Genetic Counseling Act, the Impaired Health Care Provider
6 Act, the Polysomnography Practice Act, the Naturopathic
7 Doctors' Practice Act, the Podiatry Act and the Naprapathic
8 Practice Act;

9 C. adopt and use a seal;

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

12 E. take testimony on matters within the board's
13 jurisdiction;

14 F. keep an accurate record of all its meetings,
15 receipts and disbursements;

16 G. maintain records in which the name, address and
17 license number of all licensees shall be recorded, together
18 with a record of all license renewals, suspensions,
19 revocations, probations, stipulations, censures, reprimands
20 and fines;

21 H. discipline licensees or deny, review, suspend
22 and revoke licenses to practice medicine and censure,
23 reprimand, fine and place on probation and stipulation
24 licensees and applicants in accordance with the Uniform
25 Licensing Act for any cause stated in the law that the board

1 is charged with enforcing;

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

4 J. have the authority to hire or contract with
5 investigators to investigate possible violations of the
6 Medical Practice Act;

7 K. have the authority to hire a competent attorney
8 to give advice and counsel in regard to any matter connected
9 with the duties of the board, to represent the board in any
10 legal proceedings and to aid in the enforcement of the laws
11 in relation to a health care profession or occupation over
12 which the board has authority and to fix the compensation to
13 be paid to such attorney; provided, however, that such
14 attorney shall be compensated from the funds of the board;

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

17 M. establish committees as it deems necessary for
18 carrying on its business;

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

22 O. establish and maintain rules related to the
23 management of pain based on review of national standards for
24 pain management; and

25 P. have the authority to waive licensure fees for

1 the purpose of the recruitment and retention of health care
2 practitioners over which the board has authority."

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

5 "61-6-6. DEFINITIONS.--As used in the Medical Practice
6 Act:

7 A. "approved postgraduate training program for
8 physicians" means a program approved by the accreditation
9 council for graduate medical education, the American
10 osteopathic association or other board-approved program;

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

12 C. "collaboration" means the process by which a
13 licensed physician and a physician assistant jointly
14 contribute to the health care and medical treatment of
15 patients; provided that:

16 (1) each collaborator performs actions that
17 the collaborator is licensed or otherwise authorized to
18 perform; and

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

22 D. "licensed physician" means a medical or
23 osteopathic physician licensed under the Medical Practice Act
24 to practice medicine in New Mexico;

25 E. "licensee" or "health care practitioner" means

1 a medical physician, osteopathic physician, physician
2 assistant, polysomnographic technologist, anesthesiologist
3 assistant, naturopathic doctor, podiatric physician or
4 naprapath licensed by the board to practice in New Mexico;

5 F. "medical college or school in good standing"
6 for medical physicians means a board-approved medical college
7 or school that has as high a standard as that required by the
8 association of American medical colleges and the council on
9 medical education of the American medical association; and
10 for osteopathic physicians means a college of osteopathic
11 medicine accredited by the commission of osteopathic college
12 accreditation;

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

15 H. "physician assistant" means a health care
16 practitioner who is licensed by the board to practice as a
17 physician assistant and who provides services to patients
18 with the supervision of or in collaboration with a licensed
19 physician as set forth in rules promulgated by the board;

20 I. "resident" means a graduate of a medical
21 college or school in good standing who is in training in a
22 board-approved and accredited residency training program in a
23 hospital or facility affiliated with an approved hospital and
24 who has been appointed to the position of "resident" or
25 "fellow" for the purpose of postgraduate medical training;

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

2 (1) advertising, holding out to the public
3 or representing in any manner that one is authorized to
4 practice medicine or to practice health care that is under
5 the authority of the board in this state;

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

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

15 (4) offering or undertaking to perform an
16 operation or procedure upon a person;

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

22 (6) offering medical peer review,
23 utilization review or diagnostic service of any kind that
24 directly influences patient care, except as authorized
25 pursuant to a professional or occupational licensing statute

1 set forth in Chapter 61 NMSA 1978; or

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

5 K. "the practice of medicine across state lines"
6 means:

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

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

18 L. "sexual contact" means touching the primary
19 genital area, groin, anus, buttocks or breast of a patient or
20 allowing a patient to touch another's primary genital area,
21 groin, anus, buttocks or breast in a manner that is commonly
22 recognized as outside the scope of acceptable medical or
23 health care practice;

24 M. "sexual penetration" means sexual intercourse,
25 cunnilingus, fellatio or anal intercourse, whether or not

1 there is any emission, or introducing any object into the
2 genital or anal openings of another in a manner that is
3 commonly recognized as outside the scope of acceptable
4 medical or health care practice; and

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

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

9 "61-6-15. LICENSE MAY BE REFUSED, REVOKED OR
10 SUSPENDED--LICENSEE MAY BE FINED, CENSURED OR REPRIMANDED--
11 PROCEDURE--PRACTICE AFTER SUSPENSION OR REVOCATION--PENALTY--
12 UNPROFESSIONAL AND DISHONORABLE CONDUCT DEFINED--FEES AND
13 EXPENSES.--

14 A. The board may refuse to license and may revoke
15 or suspend a license that has been issued by the board or a
16 previous board and may fine, censure or reprimand a licensee
17 upon satisfactory proof being made to the board that the
18 applicant for or holder of the license has been guilty of
19 unprofessional or dishonorable conduct. The board may also
20 refuse to license an applicant who is unable to practice as a
21 physician, practice as a physician assistant, an
22 anesthesiologist assistant, a genetic counselor, a
23 naturopathic practitioner, a naprapathic practitioner or a
24 podiatric physician or practice polysomnography, pursuant to
25 Section 61-7-3 NMSA 1978. All proceedings shall be as

1 required by the Uniform Licensing Act or the Impaired Health
2 Care Provider Act.

3 B. The board may, in its discretion and for good
4 cause shown, place the licensee on probation on the terms and
5 conditions it deems proper for protection of the public, for
6 the purpose of rehabilitation of the probationer or both.

7 Upon expiration of the term of probation, if a term is set,
8 further proceedings may be abated by the board if the holder
9 of the license furnishes the board with evidence that the
10 licensee is competent to practice, is of good moral character
11 and has complied with the terms of probation.

12 C. If evidence fails to establish to the
13 satisfaction of the board that the licensee is competent and
14 is of good moral character or if evidence shows that the
15 licensee has not complied with the terms of probation, the
16 board may revoke or suspend the license. If a license to
17 practice in this state is suspended, the holder of the
18 license may not practice during the term of suspension. A
19 person whose license has been revoked or suspended by the
20 board and who thereafter practices or attempts or offers to
21 practice in New Mexico, unless the period of suspension has
22 expired or been modified by the board or the license
23 reinstated, is guilty of a felony and shall be punished as
24 provided in Section 61-6-20 NMSA 1978.

25 D. "Unprofessional or dishonorable conduct", as

1 used in this section, means, but is not limited to because of
2 enumeration, conduct of a licensee that includes the
3 following:

4 (1) procuring, aiding or abetting an illegal
5 procedure;

6 (2) employing a person to solicit patients
7 for the licensee;

8 (3) representing to a patient that a
9 manifestly incurable condition of sickness, disease or injury
10 can be cured;

11 (4) obtaining a fee by fraud or
12 misrepresentation;

13 (5) willfully or negligently divulging a
14 professional confidence;

15 (6) conviction of an offense punishable by
16 incarceration in a state penitentiary or federal prison or
17 conviction of a misdemeanor associated with the practice of
18 the licensee. A copy of the record of conviction, certified
19 by the clerk of the court entering the conviction, is
20 conclusive evidence;

21 (7) habitual or excessive use of intoxicants
22 or drugs;

23 (8) fraud or misrepresentation in applying
24 for or procuring a license to practice in this state or in
25 connection with applying for or procuring renewal, including

1 cheating on or attempting to subvert the licensing
2 examinations;

3 (9) making false or misleading statements
4 regarding the skill of the licensee or the efficacy or value
5 of the medicine, treatment or remedy prescribed or
6 administered by the licensee or at the direction of the
7 licensee in the treatment of a disease or other condition of
8 the human body or mind;

9 (10) impersonating another licensee,
10 permitting or allowing a person to use the license of the
11 licensee or practicing as a licensee under a false or assumed
12 name;

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

15 (12) gross negligence in the practice of a
16 licensee;

17 (13) manifest incapacity or incompetence to
18 practice as a licensee;

19 (14) discipline imposed on a licensee by
20 another licensing jurisdiction, including denial, probation,
21 suspension or revocation, based upon acts by the licensee
22 similar to acts described in this section. A certified copy
23 of the record of disciplinary action or sanction taken by
24 another jurisdiction is conclusive evidence of the action;

25 (15) the use of a false, fraudulent or

1 deceptive statement in a document connected with the practice
2 of a licensee;

3 (16) fee splitting;

4 (17) the prescribing, administering or
5 dispensing of narcotic, stimulant or hypnotic drugs for other
6 than accepted therapeutic purposes;

7 (18) conduct likely to deceive, defraud or
8 harm the public;

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

12 (20) employing abusive billing practices;

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

15 (a) another licensing jurisdiction;

16 (b) a peer review body;

17 (c) a health care entity;

18 (d) a professional or medical society
19 or association;

20 (e) a governmental agency;

21 (f) a law enforcement agency; or

22 (g) a court for acts or conduct similar
23 to acts or conduct that would constitute grounds for action
24 as defined in this section;

25 (22) failure to report to the board the

1 denial of licensure, surrender of a license or other
2 authorization to practice in another state or jurisdiction or
3 surrender of membership on any medical staff or in any
4 medical or professional association or society following, in
5 lieu of and while under disciplinary investigation by any of
6 those authorities or bodies for acts or conduct similar to
7 acts or conduct that would constitute grounds for action as
8 defined in this section;

9 (23) failure to furnish the board, its
10 investigators or representatives with information requested
11 by the board;

12 (24) abandonment of patients;

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

15 (26) injudicious prescribing, administering
16 or dispensing of a drug or medicine;

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

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

23 (29) conduct unbecoming in a person licensed
24 to practice or detrimental to the best interests of the
25 public;

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

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

10 (32) sexual contact with a patient when the
11 licensee uses or exploits treatment, knowledge, emotions or
12 influence derived from the current or previous professional
13 relationship;

14 (33) improper management of medical records,
15 including failure to maintain timely, accurate, legible and
16 complete medical records;

17 (34) failure to provide pertinent and
18 necessary medical records to a physician or patient of the
19 physician in a timely manner when legally requested to do so
20 by the patient or by a legally designated representative of
21 the patient;

22 (35) undertreatment of pain as provided by
23 board rule;

24 (36) interaction with physicians, hospital
25 personnel, patients, family members or others that interferes

1 with patient care or could reasonably be expected to
2 adversely impact the quality of care rendered to a patient;

3 (37) soliciting or receiving compensation by
4 a physician assistant or anesthesiologist assistant from a
5 person who is not an employer of the assistant;

6 (38) willfully or negligently divulging
7 privileged information or a professional secret; or

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

10 E. As used in this section:

11 (1) "conversion therapy" means any practice
12 or treatment that seeks to change a person's sexual
13 orientation or gender identity, including any effort to
14 change behaviors or gender expressions or to eliminate or
15 reduce sexual or romantic attractions or feelings toward
16 persons of the same sex. "Conversion therapy" does not mean:

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

21 (b) mental health services that
22 facilitate a person's coping, social support, sexual
23 orientation or gender identity exploration and development,
24 including an intervention to prevent or address unlawful
25 conduct or unsafe sexual practices, without seeking to change

1 gender identity or sexual orientation;

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

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

17 (4) "minor" means a person under eighteen
18 years of age; and

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

22 F. Licensees whose licenses are in a probationary
23 status shall pay reasonable expenses for maintaining
24 probationary status, including laboratory costs when
25 laboratory testing of biological fluids is included as a

1 condition of probation."

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

4 "61-6-31. DISPOSITION OF FUNDS--NEW MEXICO MEDICAL
5 BOARD FUND CREATED--METHOD OF PAYMENTS.--

6 A. The "New Mexico medical board fund" is created.

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

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

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

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

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

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

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

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

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

6 "61-8-2. DEFINITIONS.--As used in the Podiatry Act:

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

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

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

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

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

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

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

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

9 "61-8-5. PODIATRY ADVISORY COMMITTEE CREATED--MEMBERS--
10 QUALIFICATIONS--TERMS--VACANCIES.--

11 A. The "podiatry advisory committee" is created to
12 advise the board regarding licensure of podiatric physicians
13 and efforts to recruit and retain podiatric physicians for
14 practice in this state. The committee shall consist of three
15 members, one member who shall be the executive director of
16 the New Mexico podiatric medical association serving as an
17 ex-officio member and two members who shall be podiatric
18 physicians licensed to practice in New Mexico who have been
19 actively engaged in the practice of podiatry for at least
20 three consecutive years immediately prior to their
21 appointments.

22 B. Members of the committee shall be appointed by
23 the board from a list of names submitted to the board by the
24 New Mexico podiatric medical association or its authorized
25 governing body or council. The list shall be submitted to

1 the board within thirty days of a vacancy and shall contain
2 at least three qualified podiatric physicians for each member
3 to be appointed. Member vacancies shall be filled in the
4 same manner. Committee members shall serve until their
5 successors have been appointed and qualified."

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

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

10 A. The committee shall hold meetings in a
11 frequency necessary to conduct business and shall meet at the
12 request of the board. Meetings of the committee shall be
13 subject to the Open Meetings Act.

14 B. Members of the committee are entitled to
15 reimbursement as provided in the Per Diem and Mileage Act,
16 but shall receive no other compensation, perquisite or
17 allowance.

18 C. The board, with the advice of the committee,
19 shall:

20 (1) administer and enforce the provisions of
21 the Podiatry Act;

22 (2) promulgate, in accordance with the State
23 Rules Act, all rules for the implementation and enforcement
24 of the provisions of the Podiatry Act;

25 (3) adopt and use a seal;

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

3 (5) keep an accurate record of its meetings,
4 receipts and disbursements;

5 (6) keep records of the name, address and
6 license number of licensed podiatric physicians together with
7 a record of license renewals, suspensions and revocations;

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

13 (8) promulgate rules setting standards of
14 preliminary and professional qualifications for the practice
15 of podiatry;

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

25 (10) determine by rule all qualifications

1 and requirements for applicants seeking licensure as
2 podiatric physicians or podiatric assistants;

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

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

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

19 "61-8-8. QUALIFICATIONS FOR LICENSURE AS A PODIATRIC
20 PHYSICIAN.--

21 A. Each applicant for licensure as a podiatric
22 physician shall furnish evidence satisfactory to the board
23 that the applicant:

24 (1) has reached the age of majority;

25 (2) has graduated and been awarded a doctor

1 of podiatric medicine degree from a college of podiatric
2 medicine accredited by the American podiatric medical
3 association council on podiatric medical education; and

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

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

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

22 D. A podiatric physician licensed in another state
23 may, on a temporary basis, consult, advise or cooperate in
24 patient treatment with a podiatric physician licensed in New
25 Mexico, subject to rules promulgated by the board."

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

3 "61-8-9. EXPEDITED LICENSURE BY RECIPROCITY.--

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

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

19 (2) pay required fees.

20 B. The board shall, as soon as practicable but no
21 later than thirty days after an out-of-state licensee files
22 an application for licensure by reciprocity, process the
23 application and issue the license in accordance with Section
24 61-1-31.1 NMSA 1978.

25 C. The board shall determine the states and

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

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

12 "61-8-10. LICENSE FEES--LICENSURE UNDER PRIOR LAW--
13 RENEWAL.--

14 A. Except as provided in Section 61-1-34 NMSA
15 1978, an applicant for licensure as a podiatric physician
16 shall pay the following fees:

17 (1) for licensure by examination:

18 (a) an examination fee equal to the
19 cost of purchasing the examination, plus an administration
20 fee not to exceed fifty percent of the examination fee; and

21 (b) an application fee not to exceed
22 six hundred dollars (\$600);

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

1 (3) for the biennial renewal of license on
2 or before January 1 of the renewal year, a renewal fee set by
3 the board in an amount not to exceed six hundred dollars
4 (\$600);

5 (4) for the late renewal after January 1 for
6 the ensuing two years, a late charge not to exceed fifty
7 dollars (\$50.00) per month or part thereof commencing on
8 January 2;

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

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

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

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

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

5 SECTION 12. Section 61-8-10.1 NMSA 1978 (being Laws
6 1989, Chapter 185, Section 2, as amended) is amended to read:

7 "61-8-10.1. LICENSE RENEWAL--CONTINUING EDUCATION--
8 PENALTY FOR FAILURE TO RENEW.--

9 A. All licensees shall renew their licenses on or
10 before January 1 of every second year. Upon application for
11 renewal, each licensee shall furnish evidence that the
12 licensee has completed continuing education requirements as
13 set forth in Subsection B of this section.

14 B. As a condition of renewal, all applicants shall
15 furnish the board with evidence of completion of postgraduate
16 study as required by board rule. Postgraduate study may be
17 obtained from a college of podiatric medicine accredited by
18 the American podiatric medical association, one of its
19 constituent societies or affiliate organizations or other
20 courses approved by the board. This requirement may only be
21 waived for reasons of prolonged illness or other incapacity
22 or during a public health emergency.

23 C. The board may summarily suspend the license of
24 a podiatric physician who fails to renew the podiatric
25 physician's license or submit proof of completion of

1 continuing education requirements within sixty days of
2 January 1 as provided in Subsection A of this section. The
3 board may reinstate licenses suspended upon payment of all
4 applicable late fees, delinquent renewal fees and
5 reinstatement fees."

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

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

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

16 B. having a disqualifying criminal conviction as
17 determined by the board. As used in this subsection,
18 "disqualifying criminal conviction" means a conviction for a
19 crime that is related to the profession of podiatry;

20 C. the habitual indulgence in the use of
21 narcotics, alcohol or other substances that impair intellect
22 and judgment to an extent as will, in the opinion of the
23 board, incapacitate a podiatric physician from the proper
24 performance of professional duties;

25 D. lending the use of one's name to an unlicensed

1 podiatric physician;

2 E. selling, giving or prescribing any compound or
3 substance containing narcotic drugs or other controlled
4 substances for illegal purposes;

5 F. the willful violation of a patient's right to
6 confidentiality;

7 G. gross malpractice or incompetency as defined by
8 board rule; or

9 H. dishonest or unprofessional conduct as defined
10 by the Podiatry Act or rules adopted pursuant to that act."

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

13 "61-8-12. OFFENSES--PENALTIES.--Each of the following
14 acts committed by any person constitutes a misdemeanor
15 punishable upon conviction by a fine of not less than one
16 hundred dollars (\$100) or more than ten thousand dollars
17 (\$10,000) or by imprisonment not to exceed one year, or both:

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

20 B. obtaining registration under the Podiatry Act
21 by false or untrue statements to the board or by presenting a
22 fraudulent diploma or license to the board;

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

25 D. advertising or using any designation, diploma

1 or certificate tending to imply that one is a practitioner of
2 podiatry, including the use of the words "chiroprapist",
3 "podiatrist", "podiatric physician", "M.Cp.", "D.S.C.",
4 "D.P.M.", "foot specialist", "foot correctionist", "foot
5 culturist", "foot practipedist", "foot doctor" or words of
6 similar import, unless one holds a license or is exempted
7 under the provisions of the Podiatry Act; or

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

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

13 "61-8-13. UNPROFESSIONAL CONDUCT.--Unprofessional
14 conduct pursuant to Subsection H of Section 61-8-11 NMSA 1978
15 for a podiatric physician licensed under the Podiatry Act
16 includes using false or misleading advertising or making a
17 false or misleading statement in communications with patients
18 or potential patients or using a misleading or deceptive
19 title or designation in a name or title of a podiatric
20 practice."

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

23 "61-8-14. LIMITATION ON LICENSURE--TEMPORARY LICENSE.--

24 A. No license to practice podiatry shall be issued
25 to a corporation, partnership or association; provided,

1 however, that this subsection shall not prohibit licensed
2 podiatric physicians from associating themselves as otherwise
3 allowed by law in a professional corporation, professional
4 limited liability company, partnership or association for the
5 purpose of practicing podiatry.

6 B. In cases of emergency, as defined by board
7 rule, the board may grant a temporary license to practice
8 podiatry to a person who meets the requirements of
9 Subsections A and B of Section 61-8-8 NMSA 1978. The
10 temporary license shall automatically expire on the date of
11 the next board meeting at which applications for licensure by
12 examination or reciprocity are approved. No person may be
13 issued more than one temporary license pursuant to this
14 provision.

15 C. To facilitate educational programs, subject to
16 conditions and terms set forth in board rules, the board may
17 grant a temporary license to practice podiatry to a person
18 enrolled and participating in such program."

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

21 "61-8-15. PRIVILEGED COMMUNICATIONS.--Medical and other
22 health care-related information concerning a patient obtained
23 by a podiatric physician or by an employee of a podiatric
24 physician during the course of examination, diagnosis or
25 treatment and advice, diagnosis, orders, prescriptions and

1 other health care-related communications from a podiatric
2 physician or an employee of a podiatric physician are
3 confidential communications protected in courts of law and
4 administrative proceedings by the physician-patient
5 privilege."

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

8 A. all functions, personnel, records, equipment,
9 supplies and other property of the board of podiatry shall be
10 transferred to the podiatry advisory committee; and

11 B. all money and appropriations of the board of
12 podiatry shall be transferred to the New Mexico medical board
13 fund.

14 SECTION 19. REPEAL.--Sections 61-8-7 and 61-8-17 NMSA
15 1978 (being Laws 1977, Chapter 221, Section 7 and Laws 1979,
16 Chapter 385, Section 2, as amended) are repealed. _____

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