SENATE BILL 422

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Sue Wilson Beffort

AN ACT

RELATING TO HEALTH; IMPOSING REQUIREMENTS ON LICENSING BOARDS AND HEALTH CARE PRACTITIONERS REGARDING PAIN MANAGEMENT; CHANGING THE NAME OF THE PRESCRIPTION DRUG MISUSE AND OVERDOSE PREVENTION AND PAIN MANAGEMENT ADVISORY COUNCIL; EXPANDING MEMBERSHIP OF THE COUNCIL; PROVIDING FOR PEER REVIEW OF OPIOID PRESCRIBERS; MAKING PEER REVIEW CONFIDENTIAL; PROVIDING PENALTIES FOR UNAUTHORIZED DISCLOSURE; MAKING CONSENT TO PEER REVIEW OF OPIOID PRESCRIBING PRACTICES A CONDITION OF LICENSURE; MAKING AN APPROPRIATION.

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

SECTION 1. Section 24-1-4.1 NMSA 1978 (being Laws 1997, Chapter 253, Section 1) is amended to read:

"24-1-4.1. CERTIFIED NURSE-MIDWIVES--PRESCRIPTIVE, DISTRIBUTING AND ADMINISTERING AUTHORITY.--

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A. Certified nurse-midwives who have fulfilled requirements for prescriptive authority may prescribe in accordance with rules, regulations, guidelines and formularies for individual certified nurse-midwives promulgated by the department of health.

B. As used in this section, "prescriptive authority" means the ability of the certified nurse-midwife to practice independently, serve as a primary care provider and as necessary collaborate with licensed medical doctors or osteopathic physicians. Certified nurse-midwives who have fulfilled requirements for prescribing drugs may prescribe, distribute and administer to their patients dangerous drugs, including controlled substances included in Schedules II through V of the Controlled Substances Act, that have been prepared, packaged or fabricated by a licensed pharmacist or doses of drugs that have been prepackaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act and New Mexico Drug, Device and Cosmetic Act.

C. A certified nurse-midwife with prescriptive authority shall consent to peer review of the certified nurse-midwife's opioid prescribing practices."

SECTION 2. Section 24-2D-1 NMSA 1978 (being Laws 1999, Chapter 126, Section 1) is amended to read:

"24-2D-1. SHORT TITLE.--[~~This act~~] Chapter 24, Article 2D NMSA 1978 may be cited as the "Pain Relief Act"."

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SECTION 3. Section 24-2D-2 NMSA 1978 (being Laws 1999, Chapter 126, Section 2, as amended) is amended to read:

"24-2D-2. DEFINITIONS.--As used in the Pain Relief Act:

A. "accepted guideline" means the most current clinical pain management guideline developed by the American geriatrics society or the American pain society or a clinical pain management guideline based on evidence and expert opinion that has been accepted by the New Mexico medical board;

B. "acute pain" means the normal, predicted physiological response to a noxious chemical or thermal or mechanical stimulus, typically associated with invasive procedures, trauma or disease and generally time-limited;

C. "addiction" means a neurobehavioral syndrome with genetic and environmental influences that results in psychological dependence on the use of a substance for its psychic effects. "Addiction" includes one or more of the following behaviors: impaired control over drug use; compulsive use; continued use despite harm; and craving;

[~~C.~~] D. "board" means the licensing board of a health care [~~provider~~] practitioner who is authorized under state and federal law to prescribe controlled substances;

[~~D.~~] E. "chronic pain" means pain that persists after reasonable medical efforts have been made to relieve the pain or its cause and that continues, either continuously or episodically, for longer than three consecutive months.

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"Chronic pain" does not include pain associated with a terminal condition or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition;

[~~E.~~] F. "clinical expert" means a person who by reason of specialized education or substantial relevant experience in pain management has knowledge regarding current standards, practices and guidelines;

G. "council" means the overdose prevention and pain management council;

[~~F.~~] H. "disciplinary action" means any formal action taken by a board against a health care [~~provider~~] practitioner, upon a finding of probable cause that the health care [~~provider~~] practitioner has engaged in conduct that violates the board's practice act;

[~~G.~~] I. "health care [~~provider~~] practitioner" means a person who is licensed or otherwise authorized by law to provide health care in the ordinary course of business or practice of the person's profession and who has prescriptive authority within the limits of the person's license;

[~~H.~~] J. "pain" means acute and chronic pain; [~~and~~]

K. "physical dependence" means a state of adaptation that is manifested by a drug-specific withdrawal syndrome that can be produced by one or more of the following: abrupt cessation or rapid dose reduction of the drug,

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decreasing blood level of the drug or administration of an antagonist;

L. "prescription drug monitoring program" means a centralized system to collect, monitor and analyze electronically, for controlled substances, prescribing and dispensing data submitted by pharmacies and dispensing practitioners and used to support efforts in education, research, enforcement and abuse prevention;

M. "review organization" means an independent peer review organization acting pursuant to the provisions of the Pain Relief Act;

N. "significant adverse drug event" means a drug-related incident that results in harm or injury to, or death of, a patient;

[~~I.~~] O. "therapeutic purpose" means the use of pharmaceutical and non-pharmaceutical medical treatment that conforms substantially to accepted guidelines for pain management; and

P. "tolerance" means a state of adaptation in which exposure to a drug induces changes that result in a diminution of one or more of the drug's effects over time."

SECTION 4. A new section of the Pain Relief Act is enacted to read:

"[NEW MATERIAL] BOARD REQUIREMENTS.--

A. No later than July 1, 2015, a board shall adopt

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rules:

(1) to implement the Pain Relief Act;

(2) to determine whether the prescriptive practices of its health care practitioner licensees who are authorized under state and federal law to prescribe controlled substances are consistent with the appropriate treatment of pain, taking into account that the treatment of pain with various medicines or controlled substances is a legitimate medical practice when accomplished in the course of professional practice; and

(3) that address pain management for patients with substance use disorders and that require very close monitoring of, and precise documentation regarding, patients with addiction, physical dependence or tolerance who have legitimate pain.

B. Each board shall evaluate a health care practitioner's pain management quality of care on the following basis:

(1) appropriate diagnosis and evaluation;

(2) appropriate medical indication for the treatment prescribed;

(3) documented change or persistence of the recognized medical indication; and

(4) follow-up evaluation with appropriate continuity of care.

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C. A board shall judge the validity of pain management prescribing based on the health care practitioner's treatment of the patient and on available documentation, rather than on the quantity and frequency of prescribing.

D. A board shall review both overprescription and underprescription of pain medications using the same standard of patient protection."

SECTION 5. A new section of the Pain Relief Act is enacted to read:

"[NEW MATERIAL] HEALTH CARE PRACTITIONER REQUIREMENTS.--

A. A health care practitioner shall endeavor to control a patient's pain for its duration while effectively addressing other aspects of the patient's functioning, including physical, psychological, social and work-related factors.

B. The prescribing, ordering, administering or dispensing of controlled substances to meet a patient's needs for management of chronic pain is appropriate if the health care practitioner:

(1) completes a physical examination of the patient and includes an evaluation of the patient's psychological and pain status. The medical history of the patient shall include any previous history of significant pain, past history of alternate treatments for pain, potential for substance abuse, coexisting disease or medical conditions and

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the presence of a medical indication or contra-indication against the use of controlled substances;

(2) is familiar with and employs screening tools as appropriate, as well as the spectrum of available modalities, in the evaluation and management of pain, considering an integrative approach to pain management;

(3) provides a written treatment plan that is developed and tailored to the individual needs of the patient, taking into consideration age, gender, culture and ethnicity, with stated objectives by which treatment can be evaluated, such as degree of pain relief, improved physical and psychological function or other accepted measures. The plan shall include a statement of the need for further testing, consultation, referral or use of other treatment modalities;

(4) discusses the risks and benefits of using controlled substances with the patient or the patient's health care decision surrogate or guardian;

(5) maintains complete and accurate records of care provided and drugs prescribed by the health care practitioner. When controlled substances are prescribed, the name of the drug, quantity, prescribed dosage and number of refills authorized shall be recorded. Prescriptions for opioids shall include indications for use. For chronic pain patients treated with a controlled substance analgesic, a prescribing health care practitioner shall use a written

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agreement for treatment with the patient outlining patient responsibilities. As part of a written agreement, chronic pain patients shall receive all chronic pain management prescriptions from one health care practitioner and one pharmacy whenever possible; and

(6) monitors the management of patients needing chronic pain control when monitoring is required by the attending or consulting health care practitioner. The health care practitioner shall review the course of treatment for chronic pain, the patient's state of health and any new information about the etiology of the chronic pain at least every six months. In addition, a health care practitioner shall consult, when indicated by the patient's condition, with a clinical expert who need not specialize in pain control.

C. If, in a health care practitioner's professional opinion, a patient is seeking pain medication for reasons that are not medically justified, the health care practitioner is not required to prescribe controlled substances for the patient.

D. Pain management for a patient with a substance use disorder shall include:

(1) a contractual agreement between the patient and the prescribing health care practitioner;

(2) appropriate consultation;

(3) drug screening when other factors suggest

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an elevated risk of misuse or diversion; and

(4) a schedule for reevaluation at appropriate time intervals, and no less than every six months.

E. A health care practitioner who holds a federal drug enforcement administration registration and a New Mexico controlled substance registration shall:

(1) register with the board of pharmacy to become a regular participant in the prescription monitoring program inquiry and reporting;

(2) before prescribing, ordering, administering or dispensing a controlled substance listed in Schedule II, III or IV of the Controlled Substances Act for a period exceeding ten days, obtain a patient prescription monitoring program report for the preceding twelve months if the patient is a new patient of the health care practitioner; and

(3) no less than every six months during the continuous use of opioids by an established patient, obtain a patient prescription monitoring program report for the preceding twelve months.

F. A health care practitioner who appropriately prescribes controlled substances and who follows the requirements of this section shall not be subject to discipline by the health care practitioner's board for violation of the Pain Relief Act."

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SECTION 6. Section 24-2D-3 NMSA 1978 (being Laws 1999, Chapter 126, Section 3, as amended) is amended to read:

"24-2D-3. DISCIPLINARY ACTION--DEFENSES--EVIDENTIARY REQUIREMENTS.--

A. A health care [~~provider~~] practitioner who prescribes, dispenses or administers medical treatment for the purpose of relieving pain and who can demonstrate by reference to an accepted guideline that the [~~provider's~~] health care practitioner's practice substantially complies with that guideline [~~and with the standards of practice identified in Section 24-2D-4 NMSA 1978~~] shall not be disciplined pursuant to board action or criminal prosecution, unless the showing of substantial compliance with an accepted guideline by the health care [~~provider~~] practitioner is rebutted by clinical expert testimony. If no currently accepted guidelines are available, then rules issued by the board may serve the function of such guidelines for purposes of the Pain Relief Act. [~~The board rules shall conform to the intent of that act.~~] Guidelines established primarily for purposes of coverage, payment or reimbursement do not qualify as an "accepted guideline" when offered to limit treatment options otherwise covered within the Pain Relief Act.

B. In the event that a disciplinary action or criminal prosecution is pursued, the board or prosecutor shall produce clinical expert testimony supporting the finding or

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charge of violation of disciplinary standards or other legal requirements on the part of the health care [~~provider~~] practitioner. A showing of substantial compliance with an accepted guideline shall only be rebutted by clinical expert testimony.

C. The provisions of this section apply to health care [~~providers~~] practitioners in the treatment of pain, regardless of a patient's prior or current chemical dependency or addiction. [~~Each board shall adopt rules establishing standards and procedures for the application of the Pain Relief Act, including pain management for patients with substance use disorders.~~]

D. In an action brought by a board against a health care [~~provider~~] practitioner based on treatment of a patient for pain, the board shall consider the totality of the circumstances and shall not use as the sole basis of the action:

(1) a patient's age;

(2) a patient's diagnosis;

(3) a patient's prognosis;

(4) a patient's history of drug abuse;

(5) the absence of consultation with a pain specialist; or

(6) the quantity of medication prescribed or dispensed."

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SECTION 7. Section 24-2D-5.2 NMSA 1978 (being Laws 2005, Chapter 140, Section 3, as amended) is amended to read:

"24-2D-5.2. [~~PRESCRIPTION DRUG MISUSE AND~~] OVERDOSE PREVENTION AND PAIN MANAGEMENT [~~ADVISORY~~] COUNCIL CREATED--[~~DUTIES~~] COMPOSITION.--

A. The "[~~prescription drug misuse and~~] overdose prevention and pain management [~~advisory~~] council" is created and shall be administratively attached to the [~~department of health~~] regulation and licensing department. The department shall provide budgeting, recordkeeping and related administrative and staff assistance to the council.

B. Members of the council shall be appointed by the governor to consist of one representative each from the department of health, the New Mexico medical board, the board of nursing, the board of pharmacy, the board of osteopathic medical examiners, the board of acupuncture and oriental medicine, the New Mexico board of dental health care, the board of chiropractic examiners, the board of podiatry, the board of optometry, the university of New Mexico health sciences center, a statewide medical association, a statewide association of pharmacists, a statewide association of nurse practitioners, a statewide association of nurse-midwives, a statewide association of certified registered nurse anesthetists and a statewide association of osteopathic physicians; one person who is a pain management specialist; one person who is a consumer

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health care advocate; and one person who has no direct ties to, or pecuniary interest in, the health care field.

[~~B.~~] C. The council shall meet at least quarterly [~~to review the current status of prescription drug misuse and overdose prevention and current pain management practices in New Mexico and national prescription drug misuse and overdose prevention and pain management standards and educational efforts for both consumers and professionals. The council shall also recommend pain management and clinical guidelines~~]. Members who are not public employees [~~shall~~] are entitled to receive per diem and mileage as provided in the Per Diem and Mileage Act. Public employee members [~~shall~~] may receive per diem and mileage from their respective employers for attendance at council meetings."

SECTION 8. A new section of the Pain Relief Act is enacted to read:

"[NEW MATERIAL] OVERDOSE PREVENTION AND PAIN MANAGEMENT COUNCIL--POWERS AND DUTIES.--

A. The council may:

(1) adopt rules necessary to carry out its powers and duties under the Pain Relief Act; and

(2) contract for goods and services.

B. The council shall:

(1) review state and national prescription drug misuse, overdose prevention and pain management standards;

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(2) make recommendations regarding pain management standards to boards as necessary;

(3) make recommendations regarding pain management education for both consumers and health care practitioners;

(4) make recommendations regarding the frequency of peer review and evaluation of a health care practitioner's opioid prescribing practices and activities, including the circumstances that warrant both initial and periodic review;

(5) issue a request for proposals for independent peer review of the opioid prescribing practices of health care practitioners; and

(6) contract for and monitor services for the independent peer review of the opioid prescribing practices of health care practitioners."

SECTION 9. A new section of the Pain Relief Act is enacted to read:

"[NEW MATERIAL] PEER REVIEW OF OPIOID PRESCRIBING.--

A. As a condition of licensure, a health care practitioner authorized under state and federal law to prescribe opioids shall consent to peer review of the health care practitioner's opioid prescribing practices.

B. The council shall contract with a review organization to:

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(1) periodically review best pain management practices for categories of health care practitioners authorized under state and federal law to prescribe opioids;

(2) recommend standards by which health care practitioners who prescribe opioids shall be reviewed and evaluated by the review organization;

(3) conduct initial and periodic peer review of health care practitioners who prescribe opioids;

(4) report quarterly on its activities, findings, recommendations and trends in patterns of opioid prescribing to the council; and

(5) with respect to a licensee of a board, notify the board regarding:

(a) the licensee's failure to cooperate with, and participate in, peer review of the licensee's prescribing practices;

(b) the licensee's noncompliance with Subsections B, D and E of Section 5 of this 2015 act;

(c) the licensee's prescribing of excessive doses of opioids not warranted by the patient's medical condition; and

(d) a significant adverse drug event arising out of or related to the licensee's prescribing of opioids.

C. The review organization shall ensure that the

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peer reviewer:

(1) is a health care practitioner who is licensed in the same profession as the health care practitioner subject to review; and

(2) consults, as needed, with a clinical expert in pain management if the peer reviewer is not a clinical expert in pain management.

D. A complaint regarding opioid prescribing practices made to a board by a member of the public, the board of pharmacy, a health care practitioner or source other than the review organization may be examined directly by the appropriate licensing board without peer review.

E. Cancer care, hospice and other end-of-life care shall not be subject to peer review."

SECTION 10. A new section of the Pain Relief Act is enacted to read:

"[NEW MATERIAL] REVIEW ORGANIZATION--CONFIDENTIALITY--IMMUNITY--PENALTY.--

A. Except as provided in Subsection B of this section, all data and information acquired by a review organization in the exercise of its duties and functions shall be held in confidence and shall not be disclosed to anyone except to the extent necessary to carry out one or more of the purposes of the review organization or in a judicial appeal from the action of the review organization.

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B. No person described in Subsection E of this section shall disclose what transpired at a meeting of a review organization except to the extent necessary to carry out one or more of the purposes of the review organization, in a judicial appeal from the action of the review organization or when subpoenaed by a board.

C. Information, documents or records otherwise available from original sources shall not be immune from discovery or use in any civil action merely because they were presented during proceedings of a review organization, nor shall any person who testified before a review organization or who is a member of a review organization be prevented from testifying as to matters within the person's knowledge, but a witness cannot be asked about opinions formed by the witness as a result of the review organization's proceedings.

D. Information, documents or records that were not generated exclusively for, but were presented during, proceedings of a review organization shall be produced to a board by the review organization or any other person possessing the information, documents or records in response to an investigative subpoena issued by a board and shall be held in confidence by the board. Nothing in this section shall be construed to permit the board to issue subpoenas requesting that any person appear to testify regarding what transpired at a meeting of a review organization or opinions formed as a

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result of review organization proceedings.

E. No person who is a member or employee of, who acts in an advisory capacity to or who furnishes counsel or services to a review organization shall be liable for damages or other relief in any action brought by a health care practitioner whose activities have been or are being scrutinized or reviewed by a review organization by reason of the performance by the person of any duty, function or activity of the review organization unless the performance of the duty, function or activity was done with malice toward the affected health care practitioner. No person shall be liable for damages or other relief in any action by reason of the performance of the person of any duty, function or activity as a member of a review organization or by reason of any recommendation or action of the review organization when the person acts in the reasonable belief that the person's action or recommendation is warranted by facts known to the person or the review organization after reasonable efforts to ascertain the facts upon which the review organization's action or recommendation is made.

F. No person providing information to a review organization shall be subject to any action for damages or other relief by reason of having furnished information unless the information is false and the person providing the information knew or had reason to believe the information was

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false.

G. Any disclosure other than that authorized by the Pain Relief Act of data and information acquired by a review organization or of what transpired at a review organization meeting is a petty misdemeanor and shall be punished by imprisonment for not to exceed six months or by a fine of not more than one hundred dollars ($100) or both.

H. Nothing contained in the Pain Relief Act shall be construed to relieve any person of any liability that the person has incurred or may incur to a patient as a result of furnishing health care services to the patient."

SECTION 11. Section 61-2-10.2 NMSA 1978 (being Laws 1995, Chapter 20, Section 5, as amended) is amended to read:

"61-2-10.2. DESIGNATION OF ORAL PHARMACEUTICAL AGENTS--CERTIFICATION FOR USE OF CERTAIN AGENTS.--

A. Subject to the provisions of the Optometry Act, optometrists qualified and certified by the board may prescribe or administer the following classes of oral pharmaceutical agents:

(1) anti-infective medications, not including antifungals;

(2) anti-glaucoma medications, not including osmotic medications;

(3) anti-allergy medications;

(4) anti-inflammatory medications, not

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including oral corticosteroids and immunosuppression agents; and

(5) analgesic medications, including schedules III through V controlled substances, as provided in the Controlled Substances Act.

B. The board shall issue certification for the use of oral pharmaceutical agents as set forth in Subsection A of this section to optometrists currently licensed by the board who are certified for the use of topical ocular pharmaceutical agents. To be certified, an optometrist shall submit to the board proof of having satisfactorily completed a course in pharmacology as applied to optometry, with particular emphasis on the administration of oral pharmaceutical agents for the purpose of examination of the human eye, and analysis of ocular functions and treatment of visual defects or abnormal conditions of the human eye and its adnexa. The course shall constitute a minimum of twenty hours of instruction in clinical pharmacology, including systemic pharmacology as applied to optometry, and shall be taught by an accredited institution approved by the board.

C. As of July 1, 1996, all applicants for licensure shall meet the requirements for certification in the use of diagnostic, topical therapeutic and oral pharmaceutical agents as set forth in the Optometry Act and shall successfully complete the board's examination in diagnostic, topical and

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oral pharmaceutical agents prior to licensure.

D. An optometrist certified under this section shall consent to peer review of the optometrist's opioid prescribing practices.

[~~D.~~] E. The certification authorized by this section shall be displayed in a conspicuous place in the optometrist's principal office or place of business."

SECTION 12. Section 61-3-23.3 NMSA 1978 (being Laws 1991, Chapter 190, Section 15, as amended) is amended to read:

"61-3-23.3. CERTIFIED REGISTERED NURSE ANESTHETIST--QUALIFICATIONS--LICENSURE--PRACTICE--ENDORSEMENT--EXPEDITED LICENSURE.--

A. The board may license for advanced practice as a certified registered nurse anesthetist an applicant who furnishes evidence satisfactory to the board that the applicant:

(1) is a registered nurse;

(2) has successfully completed a nurse anesthesia education program accredited by the council on accreditation of nurse anesthesia education programs; provided that, if the applicant is initially licensed by the board or a board in another jurisdiction after January 1, 2001, the program shall be at a master's level or higher; and

(3) is certified by the council on certification of nurse anesthetists.

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B. A certified registered nurse anesthetist may provide preoperative, intraoperative and postoperative anesthesia care and related services, including ordering of diagnostic tests, in accordance with the current American association of nurse anesthetists' guidelines for nurse anesthesia practice.

C. Certified registered nurse anesthetists shall function in an interdependent role as a member of a health care team in which the medical care of the patient is directed by a licensed physician, osteopathic physician, dentist or podiatrist licensed in New Mexico pursuant to the Dental Health Care Act, the Medical Practice Act, the Podiatry Act or Chapter 61, Article [~~5A, 6, 8 or~~] 10 NMSA 1978. The certified registered nurse anesthetist shall collaborate with the licensed physician, osteopathic physician, dentist or podiatrist concerning the anesthesia care of the patient. As used in this subsection, "collaboration" means the process in which each health care provider contributes the health care provider's respective expertise. Collaboration includes systematic formal planning and evaluation between the health care professionals involved in the collaborative practice arrangement.

D. A certified registered nurse anesthetist who has fulfilled the requirements for prescriptive authority in the area of anesthesia practice is authorized to prescribe and

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administer therapeutic measures, including dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act within the emergency procedures, perioperative care or perinatal care environments. Dangerous drugs and controlled substances, pursuant to the Controlled Substances Act, that have been prepared, packaged or fabricated by a registered pharmacist or doses of drugs that have been prepackaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act and the New Mexico Drug, Device and Cosmetic Act may be prescribed and administered.

E. A certified registered nurse anesthetist who has fulfilled the requirements for prescriptive authority in the area of anesthesia practice may prescribe in accordance with rules, regulations and guidelines. The board shall adopt rules concerning a prescriptive authority formulary for certified registered nurse anesthetists that shall be based on the scope of practice of certified registered nurse anesthetists. The board, in collaboration with the New Mexico medical board, shall develop the formulary. Certified registered nurse anesthetists who prescribe shall do so in accordance with the prescriptive authority formulary.

F. A certified registered nurse anesthetist with prescriptive authority shall consent to peer review of the certified registered nurse anesthetist's opioid prescribing practices.

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[~~F.~~] G. From July 1, 2014 through June 30, 2019, upon a determination by the board that an application is complete and approved, the board shall issue a license to a certified registered nurse anesthetist licensed in another state if the applicant meets the qualifications required of certified registered nurse anesthetists in this state. The board shall expedite the issuance of the license within five business days.

[~~G.~~] H. A health care facility may adopt policies relating to the providing of anesthesia care.

[~~H.~~] I. A certified registered nurse anesthetist licensed by the board shall maintain this certification with the American association of nurse anesthetists' council on certification."

SECTION 13. Section 61-3-23.4 NMSA 1978 (being Laws 1991, Chapter 190, Section 16, as amended) is amended to read:

"61-3-23.4. CLINICAL NURSE SPECIALIST--QUALIFICATIONS--ENDORSEMENT--EXPEDITED LICENSURE.--

A. The board may license for advanced practice as a clinical nurse specialist an applicant who furnishes evidence satisfactory to the board that the applicant:

(1) is a registered nurse;

(2) has a master's degree or doctoral degree in a defined clinical nursing specialty;

(3) has successfully completed a national

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certifying examination in the applicant's area of specialty; and

(4) is certified by a national nursing organization.

B. Clinical nurse specialists may:

(1) perform an advanced practice that is beyond the scope of practice of professional registered nursing;

(2) make independent decisions in a specialized area of nursing practice using expert knowledge regarding the health care needs of the individual, family and community, collaborating as necessary with other members of the health care team when the health care need is beyond the scope of practice of the clinical nurse specialist; and

(3) carry out therapeutic regimens in the area of specialty practice, including the prescription and distribution of dangerous drugs.

C. A clinical nurse specialist who has fulfilled the requirements for prescriptive authority in the area of specialty practice is authorized to prescribe, administer and distribute therapeutic measures, including dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act within the scope of specialty practice, including controlled substances pursuant to the Controlled Substances Act that have been prepared, packaged or

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fabricated by a registered pharmacist or doses of drugs that have been prepackaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act and the New Mexico Drug, Device and Cosmetic Act.

D. Clinical nurse specialists who have fulfilled the requirements for prescriptive authority in the area of specialty practice may prescribe in accordance with rules, regulations, guidelines and formularies based on scope of practice and clinical setting for individual clinical nurse specialists promulgated by the board.

E. A clinical nurse specialist with prescriptive authority shall consent to peer review of the clinical nurse specialist's opioid prescribing practices.

[~~E.~~] F. Clinical nurse specialists licensed by the board shall maintain certification in their specialty area.

[~~F.~~] G. From July 1, 2014 through June 30, 2019, upon a determination by the board that an application is complete and approved, the board shall issue a license to a clinical nurse specialist licensed in another state if the applicant meets the qualifications required of a clinical nurse specialist in this state. The board shall expedite the issuance of the license within five business days."

SECTION 14. Section 61-4-9.2 NMSA 1978 (being Laws 2008, Chapter 44, Section 2, as amended) is amended to read:

"61-4-9.2. CERTIFIED ADVANCED PRACTICE CHIROPRACTIC

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PHYSICIAN AUTHORITY DEFINED.--

A. A certified advanced practice chiropractic physician may prescribe, administer and dispense herbal medicines, homeopathic medicines, over-the-counter drugs, vitamins, minerals, enzymes, glandular products, protomorphogens, live cell products, gerovital, amino acids, dietary supplements, foods for special dietary use, bioidentical hormones, sterile water, sterile saline, sarapin or its generic, caffeine, procaine, oxygen, epinephrine and vapocoolants.

B. A formulary that includes all substances listed in Subsection A of this section, including compounded preparations for topical and oral administration, shall be developed and approved by the board. A formulary for injection that includes the substances in Subsection A of this section that are within the scope of practice of the certified advanced practice chiropractic physician shall be developed and approved by the board. Dangerous drugs or controlled substances, drugs for administration by injection and substances not listed in Subsection A of this section shall be submitted to the board of pharmacy and the New Mexico medical board for approval.

C. A certified advanced practice chiropractic physician with prescriptive authority shall consent to peer review of the certified advanced practice chiropractic physician's opioid prescribing practices."

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SECTION 15. A new section of the Dental Health Care Act is enacted to read:

"[NEW MATERIAL] CONSENT TO PEER REVIEW.--A board licensee who holds a federal drug enforcement administration registration shall consent to peer review of the licensee's opioid prescribing practices."

SECTION 16. A new section of the Medical Practice Act is enacted to read:

"[NEW MATERIAL] CONSENT TO PEER REVIEW.--A board licensee who holds a federal drug enforcement administration registration shall consent to peer review of the licensee's opioid prescribing practices."

SECTION 17. A new section of the Podiatry Act is enacted to read:

"[NEW MATERIAL] CONSENT TO PEER REVIEW.--A board licensee who holds a federal drug enforcement administration registration shall consent to peer review of the licensee's opioid prescribing practices."

SECTION 18. Section 61-9-17.2 NMSA 1978 (being Laws 2002, Chapter 100, Section 7) is amended to read:

"61-9-17.2. PRESCRIBING PRACTICES.--

A. A prescribing psychologist or a psychologist with a conditional prescription certificate may administer and prescribe psychotropic medication within the recognized scope of the profession, including the ordering and review of

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laboratory tests in conjunction with the prescription, for the treatment of mental disorders.

B. When prescribing psychotropic medication for a patient, the prescribing psychologist or the psychologist with a conditional prescription certificate shall maintain an ongoing collaborative relationship with the health care practitioner who oversees the patient's general medical care to ensure that necessary medical examinations are conducted, the psychotropic medication is appropriate for the patient's medical condition and significant changes in the patient's medical or psychological condition are discussed. The ongoing collaborative relationship shall be maintained pursuant to guidelines developed by the board and the New Mexico medical board [~~of medical examiners~~], which shall optimize patient care. The guidelines shall ensure that the prescribing psychologist or the psychologist with a conditional prescription certificate and the treating physician coordinate and collaborate the care of the patient to provide optimal care. A committee composed of members of both boards shall be established and, pursuant to the guidelines, shall evaluate complaints. The committee shall report its findings and recommendations to each board for each board's appropriate actions.

C. A prescription written by a prescribing psychologist or a psychologist with a conditional prescription

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certificate shall:

(1) comply with applicable state and federal laws;

(2) be identified as issued by the psychologist as "psychologist certified to prescribe"; and

(3) include the psychologist's board-assigned identification number.

D. A prescribing psychologist or a psychologist with a conditional prescription certificate shall not delegate prescriptive authority to any other person. Records of all prescriptions shall be maintained in patient records.

E. When authorized to prescribe controlled substances, a prescribing psychologist or a psychologist with a conditional prescription certificate shall file with the board in a timely manner all individual federal drug enforcement agency registrations and numbers. The board and the New Mexico medical board [~~of medical examiners~~] shall maintain current records on every psychologist, including federal registrations and numbers.

F. A prescribing psychologist or a psychologist with a conditional prescription certificate who holds a federal drug enforcement administration registration shall consent to peer review of the psychologist's opioid prescribing practices.

[~~F.~~] G. The board shall provide to the board of pharmacy and the New Mexico medical board [~~of medical~~

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~~examiners~~] an annual list of prescribing psychologists and psychologists with conditional prescription certificates that contains the information agreed upon between the board, the New Mexico medical board [~~of medical examiners~~] and the board of pharmacy. The board shall promptly notify the board of pharmacy of psychologists who are added or deleted from the list.

[~~G.~~] H. For the purpose of this section:

(1) "collaborative relationship" means a cooperative working relationship between a prescribing psychologist or a psychologist with a conditional prescription certificate and a health care practitioner in the provision of patient care, including diagnosis and cooperation in the management and delivery of physical and mental health care; and

(2) "health care practitioner" means a physician, osteopathic physician or nurse practitioner."

SECTION 19. A new section of Chapter 61, Article 10 NMSA 1978 is enacted to read:

"[NEW MATERIAL] CONSENT TO PEER REVIEW.--A licensee of the board of osteopathic medical examiners who holds a federal drug enforcement administration registration shall consent to peer review of the licensee's opioid prescribing practices."

SECTION 20. A new section of the Pharmacy Act is enacted to read:

"[NEW MATERIAL] CONSENT TO PEER REVIEW.--A board licensee

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who holds a federal drug enforcement administration registration shall consent to peer review of the licensee's opioid prescribing practices."

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

"[NEW MATERIAL] CONSENT TO PEER REVIEW.--A licensee of the board who holds a federal drug enforcement administration registration shall consent to peer review of the licensee's opioid prescribing practices."

SECTION 22. APPROPRIATION.--Two hundred thousand dollars ($200,000) is appropriated from the general fund to the regulation and licensing department for expenditure in fiscal year 2016 to pay for independent peer review services of health care practitioners who are authorized under state and federal law to prescribe opioids and for expenses of the overdose prevention and pain management council. Any unexpended or unencumbered balance remaining at the end of fiscal year 2016 shall revert to the general fund.

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