



The Legislature  
of the  
State of New Mexico

50th Legislature, 1st Session

LAWS 2011

CHAPTER 31

HOUSE BILL 107, as amended

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Introduced by

REPRESENTATIVE JEANNETTE O. WALLACE

REPRESENTATIVE NICK L. SALAZAR  
REPRESENTATIVE DON L. TRIPP  
REPRESENTATIVE LUCIANO "LUCKY" VARELA  
REPRESENTATIVE HENRY "KIKI" SAAVEDRA  
REPRESENTATIVE DONALD E. BRATTON  
REPRESENTATIVE EDWARD C. SANDOVAL



# CHAPTER 31

## AN ACT

1 RELATING TO HEALTH CARE; ASSIGNING THE DUTIES OF THE  
2 NAPRAPATHIC PRACTICE BOARD TO THE NEW MEXICO MEDICAL BOARD;  
3 ENACTING THE NAPRAPATHIC PRACTICE ACT; CREATING THE  
4 NAPRAPATHIC TASK FORCE; PROVIDING FOR THE TRANSFER OF  
5 FUNCTIONS, APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL  
6 OBLIGATIONS AND REFERENCES; AMENDING, REPEALING AND ENACTING  
7 SECTIONS OF THE NMSA 1978; RECONCILING MULTIPLE AMENDMENTS TO  
8 THE SAME SECTION OF LAW IN LAWS 2008.  
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10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

12 SECTION 1. Section 61-6-5 NMSA 1978 (being Laws 1973,  
13 Chapter 361, Section 2, as amended by Laws 2008, Chapter 53,  
14 Section 11 and by Laws 2008, Chapter 54, Section 11 and also  
15 by Laws 2008, Chapter 55, Section 1) is amended to read:

16 "61-6-5. DUTIES AND POWERS.--The board shall:

17 A. enforce and administer the provisions of the  
18 Medical Practice Act, the Physician Assistant Act, the  
19 Anesthesiologist Assistants Act, the Genetic Counseling Act,  
20 the Impaired Health Care Provider Act, the Polysomnography  
21 Practice Act and the Naprapathic Practice Act;

22 B. adopt, publish and file, in accordance with the  
23 Uniform Licensing Act and the State Rules Act, all rules for  
24 the implementation and enforcement of the provisions of the  
25 Medical Practice Act, the Physician Assistant Act, the

1 Anesthesiologist Assistants Act, the Genetic Counseling Act,  
2 the Impaired Health Care Provider Act, the Polysomnography  
3 Practice Act and the Naprapathic Practice Act;

4 C. adopt and use a seal;

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

7 E. take testimony on matters within the board's  
8 jurisdiction;

9 F. keep an accurate record of all its meetings,  
10 receipts and disbursements;

11 G. maintain records in which the name, address and  
12 license number of all licensees shall be recorded, together  
13 with a record of all license renewals, suspensions,  
14 revocations, probations, stipulations, censures, reprimands  
15 and fines;

16 H. grant, deny, review, suspend and revoke  
17 licenses to practice medicine and censure, reprimand, fine and  
18 place on probation and stipulation licensees and applicants in  
19 accordance with the Uniform Licensing Act for any cause stated  
20 in the Medical Practice Act, the Impaired Health Care Provider  
21 Act and the Naprapathic Practice Act;

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

24 J. have the authority to hire or contract with  
25 investigators to investigate possible violations of the

1 Medical Practice Act;

2 K. have the authority to hire a competent attorney  
3 to give advice and counsel in regard to any matter connected  
4 with the duties of the board, to represent the board in any  
5 legal proceedings and to aid in the enforcement of the laws in  
6 relation to the medical profession and to fix the compensation  
7 to be paid to such attorney; provided, however, that such  
8 attorney shall be compensated from the funds of the board;

9 L. establish continuing medical education  
10 requirements for licensed physicians and continuing education  
11 requirements for physician assistants;

12 M. establish committees as it deems necessary for  
13 carrying on its business;

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

17 O. establish and maintain rules related to the  
18 management of pain based on review of national standards for  
19 pain management; and

20 P. have the authority to waive licensure fees for  
21 the purpose of medical doctor recruitment and retention."

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

24 "61-6-6. DEFINITIONS.--As used in Chapter 61, Article 6  
25 NMSA 1978:

1           A. "approved postgraduate training program" means  
2 a program approved by the accrediting council on graduate  
3 medical education of the American medical association or by  
4 the board;

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

6           C. "licensed physician" means a medical doctor  
7 licensed under the Medical Practice Act to practice medicine  
8 in New Mexico;

9           D. "licensee" means a medical doctor, physician  
10 assistant, polysomnographic technologist, anesthesiologist  
11 assistant or naprapath licensed by the board to practice in  
12 New Mexico;

13           E. "medical college or school in good standing"  
14 means a board-approved medical college or school that has as  
15 high a standard as that required by the association of  
16 American medical colleges and the council on medical education  
17 of the American medical association;

18           F. "medical student" means a student enrolled in a  
19 board-approved medical college or school in good standing;

20           G. "physician assistant" means a health  
21 professional who is licensed by the board to practice as a  
22 physician assistant and who provides services to patients  
23 under the supervision and direction of a licensed physician;

24           H. "intern" means a first-year postgraduate  
25 student upon whom a degree of doctor of medicine and surgery

1 or equivalent degree has been conferred by a medical college  
2 or school in good standing;

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

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

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

13 (2) offering or undertaking to administer,  
14 dispense or prescribe a drug or medicine for the use of  
15 another person, except as authorized pursuant to a  
16 professional or occupational licensing statute set forth in  
17 Chapter 61 NMSA 1978;

18 (3) offering or undertaking to give or  
19 administer, dispense or prescribe a drug or medicine for the  
20 use of another person, except as directed by a licensed  
21 physician;

22 (4) offering or undertaking to perform an  
23 operation or procedure upon a person;

24 (5) offering or undertaking to diagnose,  
25 correct or treat in any manner or by any means, methods,

1 devices or instrumentalities any disease, illness, pain,  
2 wound, fracture, infirmity, deformity, defect or abnormal  
3 physical or mental condition of a person;

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

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

11 K. "the practice of medicine across state lines"  
12 means:

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

19 (2) the rendering of treatment to a patient  
20 within this state by a physician located outside this state as  
21 a result of transmission of individual patient data by  
22 electronic, telephonic or other means from within this state  
23 to the physician or the physician's agent;

24 L. "sexual contact" means touching the primary  
25 genital area, groin, anus, buttocks or breast of a patient or

1 allowing a patient to touch another's primary genital area,  
2 groin, anus, buttocks or breast in a manner that is commonly  
3 recognized as outside the scope of acceptable medical  
4 practice;

5 M. "sexual penetration" means sexual intercourse,  
6 cunnilingus, fellatio or anal intercourse, whether or not  
7 there is any emission, or introducing any object into the  
8 genital or anal openings of another in a manner that is  
9 commonly recognized as outside the scope of acceptable medical  
10 practice; and

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

13 SECTION 3. Section 61-6-31 NMSA 1978 (being Laws 1989,  
14 Chapter 269, Section 27, as amended by Laws 2008, Chapter 53,  
15 Section 13 and by Laws 2008, Chapter 54, Section 14 and also  
16 by Laws 2008, Chapter 55, Section 2) is amended to read:

17 "61-6-31. DISPOSITION OF FUNDS--NEW MEXICO MEDICAL  
18 BOARD FUND CREATED--METHOD OF PAYMENTS.--

19 A. There is created the "New Mexico medical board  
20 fund".

21 B. All funds received by the board and money  
22 collected under the Medical Practice Act, the Physician  
23 Assistant Act, the Anesthesiologist Assistants Act, the  
24 Genetic Counseling Act, the Polysomnography Practice Act, the  
25 Impaired Health Care Provider Act and the Naprapathic Practice



1 Act shall be deposited with the state treasurer who shall  
2 place the same to the credit of the New Mexico medical board  
3 fund.

4 C. All payments out of the fund shall be made on  
5 vouchers issued and signed by the secretary-treasurer of the  
6 board or the designee of the secretary-treasurer upon warrants  
7 drawn by the department of finance and administration in  
8 accordance with the budget approved by that department.

9 D. All amounts in the New Mexico medical board  
10 fund shall be subject to the order of the board and shall be  
11 used only for the purpose of meeting necessary expenses  
12 incurred in:

13 (1) the performance of the provisions of the  
14 Medical Practice Act, the Physician Assistant Act, the  
15 Anesthesiologist Assistants Act, the Genetic Counseling Act,  
16 the Polysomnography Practice Act, the Impaired Health Care  
17 Provider Act and the Naprapathic Practice Act and the duties  
18 and powers imposed by those acts;

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

21 (3) efforts to recruit and retain medical  
22 doctors for practice in New Mexico.

23 E. All funds that may have accumulated to the  
24 credit of the board under any previous law shall be  
25 transferred to the New Mexico medical board fund and shall

1 continue to be available for use by the board in accordance  
2 with the provisions of the Medical Practice Act, the Physician  
3 Assistant Act, the Anesthesiologist Assistants Act, the  
4 Genetic Counseling Act, the Polysomnography Practice Act, the  
5 Impaired Health Care Provider Act and the Naprapathic Practice  
6 Act. All money unused at the end of the fiscal year shall not  
7 revert, but shall remain in the fund for use in accordance  
8 with the provisions of 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 and the Naprapathic Practice  
12 Act."

13 SECTION 4. SHORT TITLE.--Sections 4 through 14 of this  
14 act may be cited as the "Naprapathic Practice Act".

15 SECTION 5. DEFINITIONS.--As used in the Naprapathic  
16 Practice Act:

- 17 A. "board" means the New Mexico medical board; and  
18 B. "licensee" means a person licensed by the board  
19 to practice naprapathy.

20 SECTION 6. NAPRAPATHIC TASK FORCE CREATED.--

21 A. The "naprapathic task force" is created under  
22 the direction of the board. The naprapathic task force shall  
23 advise the board regarding licensure of naprapaths, approval  
24 of naprapathy curricula and any other matters that are  
25 necessary to ensure the training and licensure of naprapaths.

1           B. The naprapathic task force shall be composed of  
2 no fewer than two licensees, appointed by the board, who are  
3 residents of the state. Vacancies on the naprapathic task  
4 force shall be filled by appointment by the board.

5           C. The naprapathic task force shall develop  
6 guidelines for the board to consider in regard to:

7                   (1) regulating the licensure of naprapaths  
8 and the practice of naprapathy and establishing minimum  
9 qualifications and hours of clinical experience required for  
10 licensure as a naprapath;

11                   (2) prescribing the manner in which records  
12 of examinations and treatments shall be kept and maintained;

13                   (3) providing standards for professional  
14 responsibility and conduct;

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

17                   (5) developing a means to provide  
18 information to all licensees in the state;

19                   (6) providing for the investigation of  
20 complaints against licensees or persons holding themselves out  
21 as practicing naprapathy in the state;

22                   (7) providing for the publishing of  
23 information for the public about licensees and the practice of  
24 naprapathy in the state;

25                   (8) providing for an orderly process for

1 reinstatement of a license;

2 (9) establishing criteria for acceptance of  
3 naprapathy credentials or licensure from another jurisdiction;

4 (10) providing criteria for advertising or  
5 promotional materials; and

6 (11) any other matter necessary to implement  
7 the Naprapathic Practice Act.

8 SECTION 7. PRACTICE OF NAPRAPATHY--DESCRIPTION.--

9 A. Naprapathic practice includes the diagnosis and  
10 treatment of persons with connective tissue disorders through  
11 the use of special techniques, review of case history,  
12 examination and palpation or treatment of a person by the use  
13 of connective tissue manipulation, exercise, postural  
14 counseling, nutritional counseling and the application or use  
15 of heat, cold, light, water, radiant energy, electricity,  
16 sound and air and assistive devices for the purpose of  
17 preventing, correcting or alleviating a physical disability.  
18 Naprapathic practice does not include surgery, acupuncture,  
19 Chinese herbal medicine, pharmacology or invasive diagnostic  
20 testing.

21 B. A naprapath treats contractures, muscle spasms,  
22 inflammations, scar tissue formation, adhesions, lesions,  
23 laxity, hypotonicity, rigidity, structural imbalances,  
24 bruises, contusions, muscular atrophy and partial separation  
25 of connective tissue fibers.

1 C. Naprapathic practice may require the:

2 (1) performance of specialized tests and  
3 measurements;

4 (2) administration of specialized treatment  
5 procedures; and

6 (3) establishment and modification of  
7 naprapathic treatment programs.

8 D. A naprapath may advise, supervise or teach  
9 another in the performance of naprapathy.

10 E. A naprapath shall refer to a licensed physician  
11 any patient whose medical condition should, at the time of  
12 evaluation or treatment, be determined to be beyond the scope  
13 of practice of the naprapath.

14 SECTION 8. LICENSE REQUIRED--EXCEPTIONS--  
15 REGISTRATION.--

16 A. A person shall not practice naprapathy in the  
17 state without a valid license issued by the board.

18 B. A person who is a naprapath practitioner  
19 employed by a federal government facility or agency in New  
20 Mexico is not required to be licensed pursuant to the  
21 Naprapathic Practice Act.

22 C. A person who is enrolled in a program approved  
23 by the board to provide training for naprapaths or a person  
24 receiving continuing educational training to practice  
25 naprapathy is not required to be licensed or registered with

1 the board.

2 D. A person teaching, advising or supervising  
3 students of naprapathy or teaching continuing education for  
4 naprapaths shall not practice naprapathy in New Mexico without  
5 a license by the board unless:

6 (1) that person is in the state for less  
7 than one month;

8 (2) that person is registered with the board  
9 as a teacher, advisor or supervisor; and

10 (3) the practice occurs in the course of  
11 that person's duties as a teacher, advisor or supervisor.

12 E. Nothing in the Naprapathic Practice Act shall  
13 be construed to prevent a person qualified as a member of a  
14 recognized profession, the practice of which requires a  
15 license or is regulated pursuant to the laws of New Mexico,  
16 from rendering services within the scope of the person's  
17 license or a state rule adopted to regulate the profession;  
18 provided that the person does not make a representation as  
19 being a naprapath.

20 **SECTION 9. REQUIREMENTS FOR LICENSING.--**

21 A. The board shall grant a license to practice  
22 naprapathy to a person who:

23 (1) is at least twenty-one years of age;

24 (2) has submitted to the board:

25 (a) a completed application for

1 licensing on a form provided by the board;

2 (b) required documentation as required  
3 by the board; and

4 (c) the required fees;

5 (3) has graduated from a two-year college-  
6 level program or an equivalent program approved by the board;

7 (4) has completed, in not less than three  
8 years, a four-year academic curriculum in naprapathy that is  
9 approved by the board, and the person has successfully  
10 completed one hundred thirty-two hours of academic credit,  
11 including sixty-six credit hours in basic science courses with  
12 emphasis on the study of connective tissue, and sixty-six  
13 credit hours in clinical naprapathic science, theory and  
14 application;

15 (5) has passed the national board of  
16 naprapathic examiners examination or holds a valid license as  
17 a naprapath in another jurisdiction; and

18 (6) has met all other requirements of the  
19 board.

20 B. The board may require a personal interview with  
21 an applicant to evaluate that person's qualifications for a  
22 license.

23 **SECTION 10. DESIGNATION AS NAPRAPATH--DISPLAY OF**  
24 **LICENSE.--**

25 A. A licensee is designated a "naprapath" and may

1 use that title in connection with the practice of the  
2 profession of naprapathy.

3 B. A licensee may use the title "doctor of  
4 naprapathy" or the letters "D.N." following the licensee's  
5 name to indicate the licensee's professional status.

6 C. A licensee shall display the licensee's license  
7 and diplomas in the licensee's place of business in a location  
8 clearly visible to the licensee's patients.

9 **SECTION 11. LICENSE RENEWAL.--**

10 A. The board shall review licenses for renewal  
11 annually, and all licenses to be renewed shall be renewed on  
12 July 1. Applicants for license renewal shall submit:

13 (1) a renewal application on a form provided  
14 by the board; and

15 (2) a license renewal fee.

16 B. The board may require proof of continuing  
17 education or other proof of competence as a requirement for  
18 renewal.

19 **SECTION 12. LICENSE FEES.--**The board shall establish a  
20 schedule of reasonable administrative and licensing fees, but  
21 an individual fee shall not exceed one thousand dollars  
22 (\$1,000).

23 **SECTION 13. OFFENSES--CRIMINAL PENALTIES.--**A person who  
24 practices naprapathy without a license is guilty of a  
25 misdemeanor and shall be sentenced in accordance with the



1 provisions of Section 31-19-1 NMSA 1978.

2 SECTION 14. VIOLATION--CIVIL PENALTIES.--The board may  
3 fine any person who intentionally violates the provisions of  
4 the Naprapathic Practice Act up to one thousand dollars  
5 (\$1,000) or may suspend or revoke the licensee's authority to  
6 practice naprapathy in New Mexico.

7 SECTION 15. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,  
8 APPROPRIATIONS AND PROPERTY--CONTRACTUAL OBLIGATIONS--  
9 STATUTORY REFERENCES.--

10 A. On July 1, 2011, all functions, appropriations,  
11 money, records, furniture, equipment and other property of the  
12 naprapathic practice board shall be transferred to the New  
13 Mexico medical board.

14 B. On the effective date of this act, contractual  
15 obligations of the naprapathic practice board are binding on  
16 the New Mexico medical board.

17 C. On the effective date of this act, all  
18 references in law to the naprapathic practice board shall be  
19 deemed to be references in law to the New Mexico medical  
20 board.

21 SECTION 16. REPEAL.--Sections 61-12E-1 through  
22 61-12E-17 NMSA 1978 (being Laws 2003, Chapter 60, Sections 1  
23 through 17, as amended) are repealed.

24 SECTION 17. EFFECTIVE DATE.--The effective date of the  
25 provisions of this act is July 1, 2011. \_\_\_\_\_

*Ben Lujan*

BEN LUJAN, SPEAKER  
HOUSE OF REPRESENTATIVES

*Stephen R. Arias*

STEPHEN R. ARIAS, CHIEF CLERK  
HOUSE OF REPRESENTATIVES

*John A. Sanchez*

JOHN A. SANCHEZ, PRESIDENT  
SENATE

*Lenore M. Naranjo*

LENORE M. NARANJO, CHIEF CLERK  
SENATE

Approved by me this 2nd day of April, 2011

*Susana Martinez*

SUSANA MARTINEZ, GOVERNOR  
STATE OF NEW MEXICO

Office of the Governor

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GOVERNOR