HOUSE BILL 170

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Edward C. Sandoval

AN ACT

RELATING TO PSYCHOLOGISTS; GRANTING PRESCRIPTIVE AUTHORITY TO
CERTAIN PSYCHOLOGISTS; PROVIDING QUALIFICATIONS AND
LIMITATIONS; REQUIRING MALPRACTICE INSURANCE.

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

Section 1. Section 26-1-2 NMSA 1978 (being Laws 1967,
Chapter 23, Section 2, as amended) is amended to read:

"26-1-2. DEFINITIONS.--As used in the New Mexico Drug,
Device and Cosmetic Act:

A. "board" means the board of pharmacy or its duly
authorized agent;

B. "person" includes individual, partnership,
corporation, association, institution or establishment;

C. "biological product" means any virus,
therapeutic serum, toxin, antitoxin or analogous product
applicable to the prevention, treatment or cure of diseases or
injuries of man and domestic animals and, as used within the
meaning of this definition:

(1) a "virus" is interpreted to be a product
containing the minute living cause of an infectious disease
and includes filterable viruses, bacteria, rickettsia, fungi
and protozoa;

(2) a "therapeutic serum" is a product
obtained from blood by removing the clot or clot components
and the blood cells;

(3) a "toxin" is a product containing a
soluble substance poisonous to laboratory animals or man in
doses of one milliliter or less of the product and having the
property, following the injection of nonfatal doses into an
animal, or causing to be produced therein another soluble
substance that specifically neutralizes the poisonous
substance and that is demonstrable in the serum of the animal
thus immunized; and

(4) an "antitoxin" is a product containing
the soluble substance in serum or other body fluid of an
immunized animal that specifically neutralizes the toxin
against which the animal is immune;

D. "controlled substance" means any drug,
substance or immediate precursor enumerated in Schedules I
through V of the Controlled Substances Act;
E. "drug" means:

(1) articles recognized in an official compendium;

(2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals and includes the domestic animal biological products regulated under the federal Virus-Serum-Toxin Act, 37 Stat 832-833, 21 U.S.C. 151-158 and the biological products applicable to man regulated under Federal 58 Stat 690, as amended, 42 U.S.C. 216, Section 351, 58 Stat 702, as amended, and 42 U.S.C. 262;

(3) articles other than food that affect the structure or any function of the body of man or other animals; and

(4) articles intended for use as a component of Paragraph (1), (2) or (3) of this subsection, but does not include devices or their component parts or accessories;

F. "dangerous drug" means a drug, other than a controlled substance enumerated in Schedule I of the Controlled Substances Act, that because of a potentiality for harmful effect or the method of its use or the collateral measures necessary to its use is not safe except under the supervision of a practitioner licensed by law to direct the use of such drug and hence for which adequate directions for use cannot be prepared. "Adequate directions for use" means
directions under which the layman can use a drug or device safely and for the purposes for which it is intended. A drug shall be dispensed only upon the prescription of a practitioner licensed by law to administer or prescribe such drug if it:

(1) is a habit-forming drug and contains any quantity of a narcotic or hypnotic substance or a chemical derivative of such substance that has been found under the federal act and the board to be habit forming;

(2) because of its toxicity or other potential for harmful effect or the method of its use or the collateral measures necessary to its use is not safe for use except under the supervision of a practitioner licensed by law to administer or prescribe the drug;

(3) is limited by an approved application by Section 505 of the federal act to the use under the professional supervision of a practitioner licensed by law to administer or prescribe the drug;

(4) bears the legend: "Caution: federal law prohibits dispensing without prescription."

(5) bears the legend: "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian."; or

(6) bears the legend "RX only";

G. "counterfeit drug" means a drug other than a
controlled substance that, or the container or labeling of
which, without authorization, bears the trademark, trade name
or other identifying mark, imprint or device or any likeness
of a drug manufacturer, processor, packer or distributor other
than the person who manufactured, processed, packed or
distributed the drug and that falsely purports or is
represented to be the product of or to have been packed or
distributed by such other drug manufacturer, processor, packer
or distributor;

H. "device", except when used in Subsection P of
this section and in Subsection G of Section 26-1-3, Subsection
L and Paragraph (4) of Subsection A of Section 26-1-11 and
Subsection C of Section 26-1-24 NMSA 1978, means an
instrument, apparatus, implement, machine, contrivance,
implant, in vitro reagent or other similar or related article,
including any component, part or accessory, that is:

(1) recognized in an official compendium;
(2) intended for use in the diagnosis of
disease or other conditions or in the cure, mitigation,
treatment or prevention of disease in man or other animals; or
(3) intended to affect the structure or a
function of the body of man or other animals and that does not
achieve any of its principal intended purposes through
chemical action within or on the body of man or other animals
and that is not dependent on being metabolized for achievement
of any of its principal intended purposes;

1. "prescription" means an order given individually for the person for whom prescribed, either directly from the prescriber to the pharmacist or indirectly by means of a written order signed by the prescriber, and bearing the name and address of the prescriber, his license classification, the name and address of the patient, the name and quantity of the drug prescribed, directions for use and the date of issue. No person other than a practitioner shall prescribe or write a prescription;

J. "practitioner" means a physician, doctor of oriental medicine, dentist, veterinarian, certified nurse practitioner, clinical nurse specialist, pharmacist, pharmacist clinician, certified nurse-midwife, prescribing psychologist or other person licensed or certified to prescribe and administer drugs that are subject to the New Mexico Drug, Device and Cosmetic Act;

K. "cosmetic" means:

(1) articles intended to be rubbed, poured, sprinkled or sprayed on, introduced into or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness or altering the appearance; and

(2) articles intended for use as a component of any articles enumerated in Paragraph (1) of this
subsection, except that the term shall not include soap;

L. "official compendium" means the official United States pharmacopoeia national formulary or the official homeopathic pharmacopoeia of the United States or any supplement to either of them;

M. "label" means a display of written, printed or graphic matter upon the immediate container of an article. A requirement made by or under the authority of the New Mexico Drug, Device and Cosmetic Act that any word, statement or other information appear on the label shall not be considered to be complied with unless the word, statement or other information also appears on the outside container or wrapper, if any, of the retail package of the article or is easily legible through the outside container or wrapper;

N. "immediate container" does not include package liners;

O. "labeling" means all labels and other written, printed or graphic matter:

(1) on an article or its containers or wrappers; or

(2) accompanying an article;

P. "misbranded" means a label to an article that is misleading. In determining whether the label is misleading, there shall be taken into account, among other things, not only representations made or suggested by
statement, word, design, device or any combination of the
foregoing, but also the extent to which the label fails to
reveal facts material in the light of such representations or
material with respect to consequences that may result from the
use of the article to which the label relates under the
conditions of use prescribed in the label or under such
conditions of use as are customary or usual;

Q. "advertisement" means all representations
disseminated in any manner or by any means, other than by
labeling, for the purpose of inducing, or that are likely to
induce, directly or indirectly, the purchase of drugs, devices
or cosmetics;

R. "antiseptic", when used in the labeling or
advertisement of an antiseptic, shall be considered to be a
representation that it is a germicide, except in the case of a
drug purporting to be or represented as an antiseptic for
inhibitory use as a wet dressing, ointment, dusting powder or
such other use as involves prolonged contact with the body;

S. "new drug" means any drug:

(1) the composition of which is such that the
drug is not generally recognized, among experts qualified by
scientific training and experience to evaluate the safety and
efficacy of drugs, as safe and effective for use under the
conditions prescribed, recommended or suggested in the
labeling thereof; or
(2) the composition of which is such that the

drug, as a result of investigation to determine its safety and
efficacy for use under such conditions, has become so
recognized, but that has not, otherwise than in such
investigations, been used to a material extent or for a
material time under such conditions;

T. "contaminated with filth" applies to a drug,
device or cosmetic not securely protected from dirt, dust and,
as far as may be necessary by all reasonable means, from all
foreign or injurious contaminations, or a drug, device or
cosmetic found to contain dirt, dust, foreign or injurious
contamination or infestation;

U. "selling of drugs, devices or cosmetics" shall
be considered to include the manufacture, production,
processing, packing, exposure, offer, possession and holding
of any such article for sale and the sale and the supplying or
applying of any such article in the conduct of a drug or
cosmetic establishment;

V. "color additive" means a material that:

(1) is a dye, pigment or other substance made
by a process of synthesis or similar artifice or extracted,
isolated or otherwise derived, with or without intermediate or
final change of identity, from a vegetable, mineral, animal or
other source; or

(2) when added or applied to a drug or
cosmetic or to the human body or a part thereof, is capable,
alone or through reaction with other substances, of imparting
color thereto; except that such term does not include any
material that has been or hereafter is exempted under the
federal act;

W. "federal act" means the Federal Food, Drug and
Cosmetic Act;

X. "restricted device" means a device for which
the sale, distribution or use is lawful only upon the written
or oral authorization of a practitioner licensed by law to
administer, prescribe or use the device and for which the
federal food and drug administration requires special training
or skills of the practitioner to use or prescribe. This
definition does not include custom devices defined in the
federal act and exempt from performance standards or premarket
approval requirements under Section 520(b) of the federal act;

and

Y. "prescription device" means a device that,
because of its potential for harm, the method of its use or
the collateral measures necessary to its use, is not safe
except under the supervision of a practitioner licensed in
this state to direct the use of such device and for which
"adequate directions for use" cannot be prepared, but that
bears the label: "Caution: federal law restricts this device
to sale by or on the order of a ________", the blank to be

140137.1
filled with the word "physician", "doctor of oriental medicine", "dentist", "veterinarian", "certified nurse practitioner", "clinical nurse specialist", "pharmacist", "pharmacist clinician", "certified nurse-midwife" or with the descriptive designation of any other practitioner licensed in this state to use or order the use of the device."

Section 2. Section 30-31-2 NMSA 1978 (being Laws 1972, Chapter 84, Section 2, as amended) is amended to read:

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

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

B. "agent" includes an authorized person who acts on behalf of a manufacturer, distributor or dispenser. It does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman;

C. "board" means the board of pharmacy;

D. "bureau" means the narcotic and dangerous drug section of the criminal division of the United States department of justice, or its successor agency;

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

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

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

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

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

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

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

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

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

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

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

N. "marijuana" means all parts of the plant cannabis, including any and all varieties, species and subspecies of the genus cannabis, whether growing or not, the seeds thereof and every compound, manufacture, salt,
derivative, mixture or preparation of the plant or its seeds.

It does not include the mature stalks of the plant, hashish,
tetrahydrocannabinols extracted or isolated from marijuana,
fiber produced from the stalks, oil or cake made from the
seeds of the plant, any other compound, manufacture, salt,
derivative, mixture or preparation of the mature stalks,
fiber, oil or cake, or the sterilized seed of the plant that
is incapable of germination;

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

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

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

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

(4) coca leaves and any salt, compound,
derivative or preparation of coca leaves, any salt, compound,
isomer, derivative or preparation that is a chemical
equivalent of any of these substances except decocainized coca
leaves or extractions of coca leaves that do not contain
cocaine or ecgonine;
P. "opiate" means any substance having an
addiction-forming or addiction-sustaining liability similar to
morphine or being capable of conversion into a drug having
addiction-forming or addiction-sustaining liability. "Opinae"
does not include, unless specifically designated as controlled
under Section 30-31-5 NMSA 1978, the dextrorotatory isomer of
3-methoxy-n-methyl morphinan and its salts (dextromethorphan).
"Opinae" does include its racemic and levorotatory forms;
Q. "person" means an individual, partnership,
corporation, association, institution, political subdivision,
government agency or other legal entity;
R. "practitioner" means a physician, doctor of
oriental medicine, dentist, physician assistant, certified
nurse practitioner, clinical nurse specialist, certified
nurse-midwife, prescribing psychologist, veterinarian,
pharmacist, pharmacist clinician or other person licensed or
certified to prescribe and administer drugs that are subject
to the Controlled Substances Act;
S. "prescription" means an order given
individually for the person for whom is prescribed a
controlled substance, either directly from the prescriber to
the pharmacist or indirectly by means of a written order
signed by the prescriber, in accordance with the Controlled Substances Act or rules adopted thereto;

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

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

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

(1) kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting any species of plant that is a controlled substance or controlled substance analog or from which a controlled substance can be extracted.
substance can be derived;

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

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

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

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

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

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

(8) blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances or controlled substance
analogs;

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

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

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

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

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

(b) water pipes;

(c) carburetion tubes and devices;

(d) smoking and carburetion masks;

(e) roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small to hold in the hand;
(f) miniature cocaine spoons and cocaine vials;

(g) chamber pipes;

(h) carburetor pipes;

(i) electric pipes;

(j) air-driven pipes;

(k) chilams;

(l) bongs; or

(m) ice pipes or chillers; and

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

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

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

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

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

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

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

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

(h) expert testimony concerning its
use;

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

(1) phenethylamines;

(2) N-substituted piperidines;

(3) morphinans;

(4) ecgonines;

(5) quinazolinones;

(6) substituted indoles; and

(7) arylcycloalkylamines.

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

X. "human consumption" includes application, injection, inhalation, ingestion or any other manner of introduction; and

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

Section 3. Section 61-9-1 NMSA 1978 (being Laws 1963, Chapter 92, Section 1) is amended to read:

"61-9-1. SHORT TITLE.--[This act] Chapter 61, Article 9 NMSA 1978 may be cited as the "Professional Psychologist Act"."

Section 4. Section 61-9-3 NMSA 1978 (being Laws 1963, Chapter 92, Section 3, as amended) is amended to read:

"61-9-3. DEFINITIONS.--As used in the Professional Psychologist Act:

A. "board" means the New Mexico state board of psychologist examiners;

B. "conditional prescription certificate" means a document issued by the board to a licensed psychologist that
permits the holder to prescribe psychotropic medication under the supervision of a licensed physician pursuant to the Professional Psychologist Act:

[B] C. "person" includes an individual, firm, partnership, association or corporation;

D. "prescribing psychologist" means a licensed psychologist who holds a valid prescription certificate;

E. "prescription certificate" means a document issued by the board to a licensed psychologist that permits the holder to prescribe psychotropic medication pursuant to the Professional Psychologist Act;

F. "psychotropic medication" means a controlled substance or dangerous drug that may not be dispensed or administered without a prescription and whose primary indication for use has been approved by the federal food and drug administration for the treatment of mental disorders and is listed as a psychotherapeutic agent in drug facts and comparisons or in the American hospital formulary service;

[C] G. "psychologist" means [any] a person who engages in the practice of psychology or holds himself out to the public by any title or description of services representing himself as a psychologist, which incorporates the words "psychological", "psychologist", "psychology", or when a person describes himself as above and, under such title or description, offers to render or renders services involving...
the application of principles, methods and procedures of the
science and profession of psychology to persons for
compensation or other personal gain;

[D-] H. "practice of psychology" means the
observation, description, evaluation, interpretation and
modification of human behavior by the application of
psychological principles, methods and procedures for the
purpose of preventing or eliminating symptomatic, maladaptive
or undesired behavior and of enhancing interpersonal
relationships, work and life adjustment, personal
effectiveness, behavioral health and mental health, and
further means the rendering of such psychological services to
individuals, families or groups regardless of whether payment
is received for services rendered. The practice of psychology
includes psychological testing or neuropsychological testing
and the evaluation or assessment of personal characteristics
such as intelligence, personality, abilities, interests,
aptitudes and neuropsychological functioning; counseling,
psychoanalysis, psychotherapy, hypnosis, biofeedback, behavior
analysis and therapy; diagnosis and treatment of any mental
and emotional disorder or disability, alcoholism and substance
abuse, disorders of habit or conduct and the psychological
aspects of physical illness, accident, injury and disability;
and psychoeducational evaluation, therapy, remediation and
consultation; and
(E-1) (a) "school" or "college" means any university or other institution of higher education that is regionally accredited and that offers a full-time graduate course of study in psychology as defined by rule of the board or that is approved by the American psychological association."

Section 5. Section 61-9-17 NMSA 1978 (being Laws 1963, Chapter 92, Section 16, as amended) is amended to read:

"61-9-17. DRUGS--MEDICINES.--[Nothing in the Professional Psychologist Act shall be construed as permitting psychologists or psychologist associates licensed under the Professional Psychologist Act to]

A. Except as provided in Subsections B and C of this section, psychologists or psychologist associates shall not administer or prescribe drugs or medicine or in any manner engage in the practice of medicine as defined by the laws of this state.

B. A licensed psychologist holding a conditional prescription certificate may prescribe psychotropic medication under the supervision of a licensed physician pursuant to the Professional Psychologist Act.

C. A prescribing psychologist may prescribe psychotropic medication pursuant to the Professional Psychologist Act."

Section 6. A new section of the Professional
Psychologist Act is enacted to read:

"[NEW MATERIAL] CONDITIONAL PRESCRIPTION CERTIFICATE--
PRESCRIPTION CERTIFICATE--APPLICATION--REQUIREMENTS--
RULEMAKING BY BOARD--ISSUANCE, DENIAL, RENEWAL AND REVOCATION
OF CERTIFICATION.--

A. A psychologist may apply to the board for a
conditional prescription certificate. The application shall
be made on a form approved by the board and be accompanied by
evidence satisfactory to the board that the applicant:

(1) has completed a doctoral program in
psychology from an accredited institution of higher education
or professional school, or, if the program was not accredited
at the time of the applicant's graduation, that the program
meets professional standards determined acceptable by the
board;

(2) holds a current license to practice
psychology in New Mexico;

(3) has successfully completed
pharmacological training from an institution of higher
education approved by the board or from a provider of
continuing education approved by the board;

(4) has passed a national certification
examination approved by the board that tests the applicant's
knowledge of pharmacology in the diagnosis, care and treatment
of mental disorders;
(5) within the five years immediately preceding the date of application, has successfully completed an organized program of education consisting of intensive didactic instruction of no fewer than four hundred fifty classroom hours in at least the following core areas of instruction:

(a) neuroscience;
(b) pharmacology;
(c) psychopharmacology;
(d) physiology;
(e) pathophysiology;
(f) appropriate and relevant physical and laboratory assessment; and
(g) clinical pharmacotherapeutics;

(6) within the five years immediately preceding the date of application, has been certified by the applicant's supervising psychiatrist or physician as having successfully completed a supervised and relevant clinical experience of no less than an eighty-hour practicum in clinical assessment and pathophysiology and an additional supervised practicum of at least four hundred hours treating no fewer than one hundred patients with mental disorders, the practica to have been supervised by a psychiatrist or other appropriately trained physician and determined by the board to be sufficient to competently train the applicant in the
treatment of a diverse patient population;

(7) has malpractice insurance in place that will cover the applicant during the period the conditional prescription certificate is in effect; and

(8) meets all other requirements, as determined by rule of the board, for obtaining a conditional prescription certificate.

B. The board shall issue a conditional prescription certificate if it finds that the applicant has met the requirements of Subsection A of this section. The certificate shall be valid for a period of two years, at the end of which the holder may again apply pursuant to the provisions of Subsection A of this section. A psychologist with a conditional prescription certificate may prescribe psychotropic medication under the supervision of a licensed physician subject to the following conditions:

(1) the psychologist shall continue to hold a current license to practice psychology in New Mexico and continue to maintain malpractice insurance;

(2) the psychologist shall inform the board of the name of the physician under whose supervision the psychologist will prescribe psychotropic medication and promptly inform the board of any change of the supervising physician; and

(3) a physician supervising a psychologist

.140137.1
prescribing psychotropic medication pursuant to a conditional prescription certificate shall be individually responsible for the acts and omissions of the psychologist while under his supervision. This provision does not relieve the psychologist from liability for his acts and omissions.

C. A psychologist may apply to the board for a prescription certificate. The application shall be made on a form approved by the board and be accompanied by evidence satisfactory to the board that the applicant:

(1) has been issued a conditional prescription certificate and has successfully completed two years of prescribing psychotropic medication as certified by the supervising licensed physician;

(2) holds a current license to practice psychology in New Mexico;

(3) has malpractice insurance in place that will cover the applicant as a prescribing psychologist; and

(4) meets all other requirements, as determined by rule of the board, for obtaining a prescription certificate.

D. The board shall issue a prescription certificate if it finds that the applicant has met the requirements of Subsection C of this section. A psychologist with a prescription certificate may prescribe psychotropic medication pursuant to the provisions of the Professional...
Psychologist Act if the psychologist:

(1) continues to hold a current license to practice psychology in New Mexico and continues to maintain malpractice insurance; and

(2) annually satisfies the continuing education requirements for prescribing psychologists, as set by the board, which shall be no fewer than twenty hours each year.

E. The board shall promulgate rules providing for the procedures to be followed in obtaining a conditional prescription certificate, a prescription certificate and renewals of a prescription certificate. The board may set reasonable application and renewal fees.

F. The board shall promulgate rules establishing the grounds for denial, suspension or revocation of conditional prescription certificates and prescription certificates authorized to be issued pursuant to this section, including a provision for suspension or revocation of a license to practice psychology upon suspension or revocation of a certificate. Actions of denial, suspension or revocation of a certificate shall be in accordance with the Uniform Licensing Act."

Section 7. A new section of the Professional Psychologist Act is enacted to read:

"[NEW MATERIAL] PRESCRIBING PRACTICES. --

.140137.1
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 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.

C. A prescription written by a prescribing psychologist or a psychologist with a conditional prescription 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 shall maintain current records on every psychologist, including federal registrations and numbers.

F. The board shall provide to the board of pharmacy an annual list of prescribing psychologists and psychologists with conditional prescription certificates that contains the information agreed upon between the board 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. 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

.140137.1

- 31 -
(2) "health care practitioner" means a physician, osteopathic physician or nurse practitioner."

Section 8. EFFECTIVE DATE.—The effective date of the provisions of this act is July 1, 2002.