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AN ACT

RELATING TO PROFESSIONAL LICENSURE; CHANGING MEMBERSHIP OF CERTAIN LICENSING BOARDS; EXTENDING SUNSET DATES OF CERTAIN BOARDS; INCREASING PENALTIES FOR UNLICENSED ACTIVITIES OF CERTAIN PROFESSIONS.

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

SECTION 1. A new section of the Professional Athletic Competition Act is enacted to read:

"UNLICENSED ACTIVITY--DISCIPLINARY PROCEEDINGS--CIVIL PENALTY.--A person who is not licensed to engage in a professional athletic competition activity regulated by the board is subject to disciplinary proceedings by the board as provided in the Uniform Licensing Act. The provisions of Section 61-1-3.2 NMSA 1978 notwithstanding, the board may impose a civil penalty in an amount not to exceed two thousand dollars (\$2,000) against a person who engages in a professional athletic competition activity regulated by the board without a license. In addition, the board may assess the person for administrative costs, including investigative costs and the cost of conducting a hearing."

SECTION 2. Section 60-2A-30 NMSA 1978 (being Laws 1980, Chapter 90, Section 30, as amended) is amended to read:

"60-2A-30. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The New Mexico athletic commission is terminated on

1 July 1, 2023 pursuant to the Sunset Act. The commission
2 shall continue to operate according to the provisions of the
3 Professional Athletic Competition Act until July 1, 2024.
4 Effective July 1, 2024, Chapter 60, Article 2A NMSA 1978 is
5 repealed."

6 **SECTION 3.** Section 61-14A-19 NMSA 1978 (being Laws
7 1993, Chapter 158, Section 27) is amended to read:

8 "61-14A-19. PENALTIES.--

9 A. A person who violates a provision of the
10 Acupuncture and Oriental Medicine Practice Act is guilty of a
11 misdemeanor and upon conviction shall be punished as provided
12 in Section 31-19-1 NMSA 1978.

13 B. In addition to criminal penalties, a person who
14 engages in acupuncture or oriental medicine without a license
15 is subject to disciplinary proceedings by the board. The
16 provisions of Section 61-1-3.2 NMSA 1978 notwithstanding, the
17 board may impose a civil penalty in an amount not to exceed
18 two thousand dollars (\$2,000) against such person and may
19 assess the person for administrative costs, including
20 investigative costs and the cost of conducting a hearing.
21 The fine shall be deposited to the credit of the current
22 school fund."

23 **SECTION 4.** Section 61-14A-22 NMSA 1978 (being Laws
24 1993, Chapter 158, Section 30, as amended) is amended to
25 read:

1 "61-14A-22. TERMINATION OF AGENCY LIFE--DELAYED
2 REPEAL.--The board of acupuncture and oriental medicine is
3 terminated on July 1, 2023 pursuant to the Sunset Act. The
4 board shall continue to operate according to the Acupuncture
5 and Oriental Medicine Practice Act until July 1, 2024.
6 Effective July 1, 2024, Chapter 61, Article 14A NMSA 1978 is
7 repealed."

8 SECTION 5. Section 61-15-3 NMSA 1978 (being Laws 1979,
9 Chapter 362, Section 3, as amended) is amended to read:

10 "61-15-3. BOARD OF EXAMINERS FOR ARCHITECTS CREATED--
11 TERMS--QUALIFICATIONS.--

12 A. The "board of examiners for architects" is
13 created consisting of seven members appointed by the governor
14 for staggered terms of three years each. Six of the members
15 shall be architects having ten years or more experience in
16 the profession, five years of which shall have been in
17 responsible charge of architectural projects, and shall have
18 been registered as architects in New Mexico for at least five
19 years. One of these six architects shall be in architectural
20 education in an accredited college of architecture, and one
21 of the six architects shall be from the public sector and not
22 in private practice. The seventh member shall be a public
23 member who is a voting member. The public member of the
24 board shall not have been licensed as an architect, nor shall
25 the public member have any significant financial interest,

1 whether direct or indirect, in the occupation regulated.

2 B. Each member of the board shall be at least
3 thirty years of age, a citizen of the United States and a
4 resident of New Mexico for at least five years prior to the
5 date of appointment.

6 C. Members of the board shall be appointed for
7 staggered terms of three years each made in such a manner
8 that the terms of not more than two members expire on June 30
9 of each year. Each member shall serve until a successor has
10 been appointed and qualified. A vacancy shall be filled for
11 the unexpired term by appointment by the governor of a person
12 having similar qualifications as the member that the person
13 replaces. Each member of the board whose term has not
14 expired on the effective date of this section shall serve out
15 the member's unexpired term.

16 D. Each member of the board shall receive a
17 certificate of appointment from the governor and, before
18 beginning the member's term of office, shall file with the
19 secretary of state the constitutional oath of office. The
20 governor may remove any member from the board for the neglect
21 of any duty required by law, for incompetence or, if the
22 member is a licensed architect, for any improper or
23 unprofessional conduct as defined by rules of the board.

24 E. The board shall elect a chair, a vice chair and
25 a secretary and any other officers it deems necessary."

1 **SECTION 6.** Section 61-15-13 NMSA 1978 (being Laws 1979,
2 Chapter 362, Section 10, as amended) is amended to read:

3 "61-15-13. TERMINATION OF AGENCY LIFE--DELAYED
4 REPEAL.--The board of examiners for architects is terminated
5 on July 1, 2023 pursuant to the provisions of the Sunset Act.
6 The board shall continue to operate according to the
7 provisions of the Architectural Act until July 1, 2024.
8 Effective July 1, 2024, the Architectural Act is repealed."

9 **SECTION 7.** Section 61-23-32 NMSA 1978 (being Laws 1987,
10 Chapter 336, Section 32, as amended) is amended to read:

11 "61-23-32. TERMINATION OF AGENCY LIFE--DELAYED
12 REPEAL.--The state board of licensure for professional
13 engineers and professional surveyors is terminated on July 1,
14 2023 pursuant to the Sunset Act. The board shall continue to
15 operate according to the provisions of the Engineering and
16 Surveying Practice Act until July 1, 2024. Effective July 1,
17 2024, the Engineering and Surveying Practice Act is
18 repealed."

19 **SECTION 8.** Section 61-27B-6 NMSA 1978 (being Laws 2007,
20 Chapter 115, Section 6) is amended to read:

21 "61-27B-6. PRIVATE INVESTIGATIONS ADVISORY BOARD--
22 CREATED--MEMBERS.--

23 A. The "private investigations advisory board" is
24 created.

25 B. The superintendent of regulation and licensing

1 shall appoint members to the advisory board to assist in the
2 conduct of the examination process for licensees and
3 registrants and to assist the department in other manners as
4 requested by the superintendent or provided for in rules of
5 the department.

6 C. The advisory board members shall consist of at
7 least the following:

- 8 (1) one private investigator;
- 9 (2) one private patrol operator;
- 10 (3) one polygraph examiner; and
- 11 (4) two members of the public.

12 D. Members of the advisory board shall be
13 reimbursed pursuant to the Per Diem and Mileage Act and shall
14 receive no other compensation, perquisite or allowance for
15 each day spent in the discharge of their duties.

16 E. The public members of the advisory board or
17 their spouses shall not:

18 (1) have been licensed pursuant to the
19 Private Investigations Act or any prior similar statutory
20 provisions; or

21 (2) have a direct or indirect financial
22 interest in a private investigation company, private patrol
23 company, polygraph business or a related business."

24 SECTION 9. Section 61-27B-27 NMSA 1978 (being Laws
25 1993, Chapter 212, Section 14, as amended) is amended to

1 read:

2 "61-27B-27. HEARING--PENALTIES.--

3 A. A person who is denied a license or
4 registration or who has a license or registration suspended
5 or revoked shall be entitled to a hearing before the
6 department if within twenty days after the denial, suspension
7 or revocation a request for a hearing is received by the
8 department. The procedures of the Uniform Licensing Act
9 shall be followed pertaining to the hearing to the extent
10 that they do not conflict with the provisions of the Private
11 Investigations Act.

12 B. In accordance with the provisions of the
13 Uniform Licensing Act, and in addition to other penalties
14 provided by law, the department may impose the following:

15 (1) for a violation of the Private
16 Investigations Act, a civil penalty not to exceed one
17 thousand dollars (\$1,000) for each violation; and

18 (2) against a person who is found by the
19 department to be engaging in a practice regulated by the
20 department without an appropriate license or registration,
21 civil penalties not to exceed two thousand dollars (\$2,000)."

22 **SECTION 10.** Section 61-24C-17 NMSA 1978 (being Laws
23 1993, Chapter 83, Section 5, as amended) is amended to read:

24 "61-24C-17. TERMINATION OF AGENCY LIFE--DELAYED
25 REPEAL.--The interior design board is terminated on July 1,

1 2023 pursuant to the provisions of the Sunset Act. The board
2 shall continue to operate according to the provisions of the
3 Interior Designers Act until July 1, 2024. Effective July 1,
4 2024, Chapter 61, Article 24C NMSA 1978 is repealed."

5 SECTION 11. Section 61-27B-36 NMSA 1978 (being Laws
6 2007, Chapter 115, Section 35, as amended) is amended to
7 read:

8 "61-27B-36. TERMINATION OF AGENCY LIFE--DELAYED
9 REPEAL.--The private investigations advisory board is
10 terminated on July 1, 2023 pursuant to the Sunset Act. The
11 board shall continue to operate according to the provisions
12 of the Private Investigations Act until July 1, 2024.
13 Effective July 1, 2024, Chapter 61, Article 27B NMSA 1978 is
14 repealed."

15 SECTION 12. Section 61-28B-20 NMSA 1978 (being Laws
16 1999, Chapter 179, Section 20, as amended) is amended to
17 read:

18 "61-28B-20. ENFORCEMENT--ADMINISTRATIVE VIOLATIONS AND
19 REMEDIES.--

20 A. The board may take, after providing a person
21 due process pursuant to the Uniform Licensing Act, corrective
22 action identified in Subsection B of this section following a
23 finding that an applicant or licensee:

24 (1) committed fraud or deceit in obtaining a
25 certificate or permit;

1 (2) lost a certificate or permit through
2 cancellation, revocation, suspension or refusal of renewal in
3 any other state for cause, as defined by board rule;

4 (3) failed to maintain compliance with the
5 requirements of the 1999 Public Accountancy Act and board
6 rules for issuance or renewal of a certificate or permit or
7 failed to report material changes to the board, as required
8 by board rule;

9 (4) lost the authorization to practice in
10 any state or before any federal agency through revocation or
11 suspension of that authorization;

12 (5) committed dishonest, fraudulent or
13 grossly negligent acts in the practice of public accountancy
14 or in the filing or failure to file the applicant's or
15 licensee's own income or other federal, state or local tax
16 returns;

17 (6) violated a provision of the 1999 Public
18 Accountancy Act or a rule promulgated by the board pursuant
19 to that act;

20 (7) violated a rule of professional conduct
21 promulgated by the board pursuant to the 1999 Public
22 Accountancy Act;

23 (8) has been convicted of a felony or of a
24 crime an element of which is dishonesty or fraud under the
25 laws of the United States, of New Mexico or of any other

1 state, or of any other jurisdiction, if the acts involved
2 would have constituted a crime under the laws of New Mexico;

3 (9) performed a fraudulent act while holding
4 a certificate or permit issued pursuant to the 1999 Public
5 Accountancy Act or prior law; or

6 (10) participated in any conduct reflecting
7 adversely upon the applicant's or licensee's fitness to
8 engage in practice.

9 B. After a finding by the board that an applicant
10 or licensee has committed a violation identified in
11 Subsection A of this section, the board may take, with or
12 without terms, conditions and limitations, one or more of the
13 following corrective actions:

14 (1) deny an application or revoke a
15 certificate or permit issued pursuant to the 1999 Public
16 Accountancy Act or corresponding provisions of prior law;

17 (2) suspend a certificate or permit for a
18 period of not more than five years;

19 (3) reprimand, censure or limit the scope of
20 practice of a licensee;

21 (4) impose an administrative fine not
22 exceeding ten thousand dollars (\$10,000); or

23 (5) place the licensee on probation.

24 C. In lieu of or in addition to a remedy
25 specifically provided in Subsection B of this section, the

1 board may require of a licensee:

2 (1) a quality review conducted in such a
3 fashion as the board may specify;

4 (2) satisfactory completion of such
5 continuing professional education programs as the board may
6 specify;

7 (3) correction of the violation identified;
8 and

9 (4) any other suitable remedial action as
10 determined by the board.

11 D. In a proceeding in which a remedy provided by
12 Subsection B or C of this section is imposed, the board may
13 also require the respondent to pay the costs of the
14 proceeding.

15 E. The provisions of Section 61-1-3.2 NMSA 1978
16 notwithstanding, the board may impose a civil penalty in an
17 amount not to exceed two thousand dollars (\$2,000) against a
18 person who engages in public accountancy without a license.
19 In addition, the board may assess the person for
20 administrative costs, including investigative costs and the
21 cost of conducting a hearing."

22 **SECTION 13.** Section 61-28B-29 NMSA 1978 (being Laws
23 1999, Chapter 179, Section 29, as amended) is amended to
24 read:

25 "61-28B-29. TERMINATION OF AGENCY LIFE--DELAYED

1 REPEAL.--The New Mexico public accountancy board is
2 terminated on July 1, 2023 pursuant to the provisions of the
3 Sunset Act. The board shall continue to operate according to
4 the provisions of the 1999 Public Accountancy Act until July
5 1, 2024. Effective July 1, 2024, the 1999 Public Accountancy
6 Act is repealed."

7 SECTION 14. Section 61-30-22 NMSA 1978 (being Laws
8 1990, Chapter 75, Section 22, as amended) is amended to read:

9 "61-30-22. CIVIL AND CRIMINAL PENALTIES--INJUNCTIVE
10 RELIEF.--

11 A. Any person who violates any provision of the
12 Real Estate Appraisers Act is guilty of a misdemeanor and
13 shall be punished by a fine of not more than one thousand
14 dollars (\$1,000) or by imprisonment for not more than six
15 months or both.

16 B. In the event any person has engaged in or
17 proposes to engage in any act or practice violating a
18 provision of the Real Estate Appraisers Act, the attorney
19 general or the district attorney of the judicial district in
20 which the person resides or the judicial district in which
21 the violation has occurred or will occur shall, upon
22 application of the board, maintain an action in the name of
23 the state to prosecute the violation or to enjoin the
24 proposed act or practice.

25 C. The board may impose a civil penalty in an

1 amount not to exceed one thousand dollars (\$1,000) for each
2 violation of the Real Estate Appraisers Act and assess
3 administrative costs for any investigation and administrative
4 or other proceedings against a real estate appraiser trainee,
5 a state licensed residential real estate appraiser or a state
6 certified real estate appraiser. The provisions of Section
7 61-1-3.2 NMSA 1978 notwithstanding, the board may impose a
8 civil penalty not to exceed two thousand dollars (\$2,000)
9 against any person who is found, through an administrative
10 proceeding, to have acted without a license. Appeals from
11 decisions of the board shall be taken as provided in Section
12 39-3-1.1 NMSA 1978."

13 SECTION 15. Section 61-30-24 NMSA 1978 (being Laws
14 1993, Chapter 269, Section 21, as amended) is amended to
15 read:

16 "61-30-24. TERMINATION OF AGENCY LIFE--DELAYED
17 REPEAL.--The real estate appraisers board is terminated
18 effective July 1, 2023. The Real Estate Appraisers Act shall
19 continue in effect until July 1, 2024. Chapter 61, Article
20 30 NMSA 1978 is repealed effective July 1, 2024."

21 SECTION 16. Section 61-32-6 NMSA 1978 (being Laws 1993,
22 Chapter 204, Section 6, as amended) is amended to read:

23 "61-32-6. BOARD POWERS.--

24 A. In addition to any other authority provided by
25 law, the board has the power to:

1 (1) adopt, in accordance with the provisions
2 of the Uniform Licensing Act, and file, in accordance with
3 the State Rules Act, rules necessary to carry out the
4 provisions of the Funeral Services Act;

5 (2) adopt rules implementing continuing
6 education requirements;

7 (3) conduct hearings upon charges relating
8 to the discipline of licensees and take administrative
9 actions pursuant to Section 61-1-3 NMSA 1978;

10 (4) establish reasonable fees to carry out
11 the provisions of the Funeral Services Act;

12 (5) provide for investigations necessary to
13 determine violations of the Funeral Services Act;

14 (6) establish committees as the board deems
15 necessary for carrying out the provisions of the Funeral
16 Services Act;

17 (7) apply for injunctive relief to enforce
18 the provisions of the Funeral Services Act or to restrain any
19 violation of that act; and

20 (8) conduct criminal background checks on
21 applicants for licensure.

22 B. No action or other legal proceedings for
23 damages shall be instituted against the board, any board
24 member or employee of the board for any act performed in good
25 faith and in the intended performance of any power or duty

1 granted under the Funeral Services Act or for any neglect or
2 default in the good faith performance or exercise of any such
3 power or duty."

4 SECTION 17. Section 61-32-23 NMSA 1978 (being Laws
5 1993, Chapter 204, Section 23, as amended) is amended to
6 read:

7 "61-32-23. FEES AND FINES.--The board shall establish
8 by rule a schedule of reasonable fees and fines for
9 applications, examinations, licenses, inspections, renewals,
10 penalties, reinstatements and necessary administrative fees.
11 All fees collected shall be deposited in accordance with
12 Section 61-32-26 NMSA 1978. All fines collected shall be
13 deposited in the current school fund."

14 SECTION 18. Section 61-32-26 NMSA 1978 (being Laws
15 1993, Chapter 204, Section 26, as amended) is amended to
16 read:

17 "61-32-26. FUND ESTABLISHED.--

18 A. There is created in the state treasury the
19 "funeral services fund".

20 B. All fees and costs received or collected by the
21 board or the department pursuant to provisions of the Funeral
22 Services Act shall be deposited with the state treasurer for
23 credit to the funeral services fund. The state treasurer
24 shall invest the fund as other state funds are invested. All
25 balances in the fund at the end of any fiscal year shall

1 remain in the fund and shall not revert to the general fund.

2 C. Money in the funeral services fund is
3 appropriated to the board and shall be used only for the
4 purpose of carrying out the provisions of the Funeral
5 Services Act."

6 SECTION 19. Section 61-32-30.1 NMSA 1978 (being Laws
7 2003, Chapter 420, Section 11, as amended) is amended to
8 read:

9 "61-32-30.1. UNLICENSED ACTIVITY--CIVIL PENALTY.--The
10 provisions of Section 61-1-3.2 NMSA 1978 notwithstanding, the
11 board may impose a fine in an amount not to exceed two
12 thousand dollars (\$2,000) and costs on a person who is found
13 to have acted without a license in violation of the Funeral
14 Services Act by a court or an administrative proceeding as
15 provided for in the Funeral Services Act."

16 SECTION 20. Section 61-32-31 NMSA 1978 (being Laws
17 1993, Chapter 204, Section 31, as amended) is amended to
18 read:

19 "61-32-31. TERMINATION OF AGENCY LIFE--DELAYED
20 REPEAL.--The board of funeral services is terminated on
21 July 1, 2023 pursuant to the provisions of the Sunset Act.
22 The board shall continue to operate according to the
23 provisions of Section 12-9-18 NMSA 1978 until July 1, 2024.
24 Effective July 1, 2024, the Funeral Services Act is
25 repealed."

1 SECTION 21. TEMPORARY PROVISION--BOARD PUBLIC

2 MEMBERS.--In carrying out the statutory requirement to replace
3 professional members with public members on the board of
4 examiners for architects and the private investigations
5 advisory board, the governor shall appoint a public member to
6 replace the applicable professional member whose term first
7 expires after the effective date of this act. If a vacancy
8 occurs in an applicable professional member position prior to
9 the expiration of that term, the governor shall appoint a
10 public member, and that position shall become a public member
11 position.

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