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SENATE BILL 101

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Joseph A. Fidel

AN ACT

RELATING TO LICENSING; ADMINISTRATIVELY ATTACHING CERTAIN PROFESSIONAL AND OCCUPATIONAL LICENSING BOARDS TO THE REGULATION AND LICENSING DEPARTMENT; LIMITING THE HIRING OF STAFF, AGENTS AND ATTORNEYS OF CERTAIN PROFESSIONAL AND OCCUPATIONAL BOARDS; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 61-2-5 NMSA 1978 (being Laws 1973, Chapter 353, Section 4, as amended) is amended to read:

"61-2-5. BOARD CREATED--TERMS--APPOINTMENT--CONTINUANCE--REMOVAL.--

A. There is created a six-member "board of optometry" [composed]. The board shall be administratively attached to the regulation and licensing department. The board

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1 consists of four persons who have resided in and have been  
2 continuously engaged in the practice of optometry in New Mexico  
3 for at least five years immediately prior to their appointment  
4 and two persons who shall represent the public. The public  
5 members of the board shall not have been licensed as [~~an~~  
6 ~~optometrist~~] optometrists, nor shall the public members have  
7 any significant financial interest, whether direct or indirect,  
8 in the occupation regulated.

9 B. Professional members of the board shall be  
10 appointed by the governor from a list of five names for each  
11 vacancy submitted to him by the state organization affiliated  
12 with the American optometric association. Not more than one  
13 professional board member shall maintain his place of business  
14 or reside in any one county, and professional appointments  
15 shall be made on a geographical basis to effect representation  
16 of all areas of the state. Board members shall be appointed  
17 for staggered terms of five years or less, each. The [~~terms~~]  
18 term of each board member shall be made in such a manner that  
19 the term of one board member ends on June 30 of each year.  
20 Board members shall serve until their successors have been  
21 appointed and qualified. A professional member vacancy shall  
22 be filled for the unexpired term by the appointment by the  
23 governor of a licensed optometrist from the general area of the  
24 state represented by the former member. All members of the  
25 board of optometry in office on the effective date of the

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1 Optometry Act shall serve out their unexpired terms.

2 C. The governor may remove ~~[any]~~ a member from the  
3 board for the neglect of ~~[any]~~ a duty required by law, for  
4 incompetence, for improper or unprofessional conduct as defined  
5 by board regulation or for ~~[any]~~ a reason that would justify  
6 the suspension or revocation of his license to practice  
7 optometry.

8 D. ~~[No]~~ A board member shall not serve more than  
9 two consecutive terms, and ~~[any]~~ a member failing to attend,  
10 after proper notice, three consecutive meetings shall  
11 automatically be removed as a board member unless excused for  
12 reasons set forth in board regulations.

13 E. In the event of a vacancy for any reason, the  
14 board secretary shall immediately notify the governor, the  
15 board members and the state optometric association of the  
16 vacancy, the reason for its occurrence and the action taken by  
17 the board, so as to expedite the appointment of a new board  
18 member. "

19 Section 2. Section 61-2-6 NMSA 1978 (being Laws 1973,  
20 Chapter 353, Section 5, as amended) is amended to read:

21 "61-2-6. ORGANIZATION--MEETINGS--COMPENSATION--POWERS AND  
22 DUTIES.--

23 A. The board shall annually elect a chairman, a  
24 vice chairman and a secretary-treasurer; each ~~[of whom]~~ shall  
25 serve until his successor is elected and qualified.

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1           B. The board shall meet at least annually for the  
2 purpose of examining candidates for licensure. Special  
3 meetings may be called by the chairman and shall be called upon  
4 the written request of a majority of the board members. A  
5 majority of the board members currently serving constitutes a  
6 quorum.

7           C. Members of the board may be reimbursed as  
8 provided in the Per Diem and Mileage Act but shall receive no  
9 other compensation, perquisite or allowance.

10          D. The board shall:

11                 (1) administer and enforce the provisions of  
12 the Optometry Act;

13                 (2) adopt, publish and file, in accordance  
14 with the Uniform Licensing Act and the State Rules Act, all  
15 rules and regulations for the implementation and enforcement of  
16 the provisions of the Optometry Act;

17                 (3) adopt and use a seal;

18                 (4) administer oaths and take testimony on  
19 [any] matters within the board's jurisdiction;

20                 (5) keep an accurate record of [all-its]  
21 meetings, receipts and disbursements;

22                 (6) keep a record of [all] examinations held,  
23 together with the names and addresses of [all] persons taking  
24 the examinations and the examination results. Within thirty  
25 days after [any] an examination, the board shall give written

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1 notice to each applicant examined of the results of the  
2 examination as to the respective applicant;

3 (7) certify as passing each applicant who  
4 obtains a grade of at least seventy-five percent on each  
5 subject upon which he is examined; providing that [~~any~~] an  
6 applicant failing may apply for re-examination at the next  
7 scheduled examination date;

8 (8) keep a book of registration in which the  
9 name, address and license number of [~~all~~] licensees shall be  
10 recorded, together with a record of [~~all~~] license renewals,  
11 suspensions and revocations;

12 (9) grant, deny, renew, suspend or revoke  
13 licenses to practice optometry in accordance with the  
14 provisions of the Uniform Licensing Act for any cause stated in  
15 the Optometry Act;

16 (10) develop and administer qualifications for  
17 certification for the use of topical ocular pharmaceutical  
18 agents and oral pharmaceutical agents as authorized in Section  
19 61-2-10.2 NMSA 1978, including ~~minimum~~ educational requirements  
20 and examination, as required by Section 61-2-10 NMSA 1978 and  
21 provide the board of pharmacy with an annual list of  
22 optometrists certified to use topical ocular pharmaceutical  
23 agents and oral pharmaceutical agents as authorized in Section  
24 61-2-10.2 NMSA 1978; and

25 (11) provide for the suspension of an

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1 optometrist's license for sixty days upon a determination of  
2 use of pharmaceutical agents without prior certification in  
3 accordance with Section 61-2-10 NMSA 1978, after proper notice  
4 and an opportunity to be heard before the board [~~and~~  
5 ~~(12) have the power to employ agents or~~  
6 ~~attorneys~~]. "

7 Section 3. Section 61-4-3 NMSA 1978 (being Laws 1968,  
8 Chapter 3, Section 3, as amended) is amended to read:

9 "61-4-3. BOARD CREATED-- APPOINTMENT-- OFFICERS-- DUTIES--  
10 COMPENSATION.--

11 A. There is created the "chiropractic board". The  
12 board shall be administratively attached to the regulation and  
13 licensing department. The board shall consist of six persons.  
14 Four shall have been continuously engaged in the practice of  
15 chiropractic in New Mexico for five years immediately prior to  
16 their appointment. Two persons shall represent the public and  
17 shall not have practiced chiropractic in this state or any  
18 other jurisdiction. [~~No~~] A person shall not be appointed to  
19 the board who is an officer or employee of or who is  
20 financially interested in any school or college of  
21 chiropractic, medicine, surgery or osteopathy.

22 B. Members of the board shall be appointed by the  
23 governor for staggered terms [~~one of the members shall be~~  
24 ~~appointed for a term ending July 1, 1980, one for a term ending~~  
25 ~~July 1, 1981, one for a term ending July 1, 1982, one for a~~

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1 ~~term ending July 1, 1983 and one for a term ending July 1,~~  
2 ~~1984. Thereafter, appointments shall be made for terms]~~ of  
3 five years or less and [~~be made~~] in [~~such~~] a manner that the  
4 term of one board member expires on July 1 of each year. A  
5 list of five names for each professional member vacancy shall  
6 be submitted by the New Mexico chiropractic [~~associations~~]  
7 association to the governor for his consideration in the  
8 appointment of board members. A vacancy shall be filled by  
9 appointment for the unexpired term. Board members shall serve  
10 until their successors have been appointed and qualified.

11 C. The board shall annually elect a chairman and a  
12 secretary-treasurer. A majority of the board constitutes a  
13 quorum. The board shall meet quarterly. Special meetings may  
14 be called by the chairman and shall be called upon the written  
15 request of two members of the board. Notification of special  
16 meetings shall be made by certified mail unless such notice is  
17 waived by the entire board and the action noted in the minutes.  
18 Notice of all regular meetings shall be made by regular mail at  
19 least ten days prior to the meeting, and copies of the minutes  
20 of all meetings shall be mailed to each board member within  
21 thirty days after [~~any~~] a meeting.

22 D. [~~Any~~] A board member failing to attend three  
23 consecutive meetings, either regular or special, shall  
24 automatically be removed as a member of the board.

25 E. The board shall adopt a seal.

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1           F. The board shall promulgate and file, in  
2 accordance with the State Rules Act, all rules and regulations  
3 necessary for the implementation and enforcement of the  
4 provisions of the Chiropractic Physician Practice Act,  
5 including educational requirements for a chiropractic  
6 assistant.

7           G. The board shall cause examinations to be held at  
8 least twice a year, and all applicants shall be notified in  
9 writing of each examination.

10           H. The board, for the purpose of protecting the  
11 health and well-being of the citizens of this state and  
12 maintaining and continuing informed professional knowledge and  
13 awareness, shall establish by regulations adopted in accordance  
14 with the provisions of the Uniform Licensing Act mandatory  
15 continuing education requirements for chiropractors licensed in  
16 this state.

17           I. Failure to comply with the rules and regulations  
18 adopted by the board shall be grounds for investigation, which  
19 may lead to revocation of license.

20           J. Members of the board shall be reimbursed as  
21 provided in the Per Diem and Mileage Act, but shall receive no  
22 other compensation, perquisite or allowance for each day  
23 necessarily spent in the discharge of their duties. "

24           Section 4. Section 61-5A-8 NMSA 1978 (being Laws 1994,  
25 Chapter 55, Section 8) is amended to read:

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1 "66-5A-8. BOARD CREATED. --

2 A. There is created the nine-member "New Mexico  
3 board of dental health care". The board shall be  
4 administratively attached to the regulation and licensing  
5 department. The board shall consist of five dentists, two  
6 dental hygienists and two public members. The dentists shall  
7 be actively practicing and have been licensed practitioners and  
8 residents of New Mexico for a period of five years preceding  
9 the date of appointment. The dental hygienist members shall be  
10 members of the committee and shall be elected annually to sit  
11 on the board by those sitting on the committee. The appointed  
12 public members shall be residents of New Mexico and shall have  
13 no financial interest, direct or indirect, in the professions  
14 regulated in the Dental Health Care Act.

15 B. The governor may appoint the dentist members  
16 from a list of names submitted by the New Mexico dental  
17 association. There shall be one member from each district.  
18 All board members shall serve until their successors have been  
19 appointed. ~~[No]~~ A member shall not be employed by or receive  
20 remuneration from a dental or dental hygiene educational  
21 institution.

22 C. Appointments for dentists and public members  
23 shall be for terms of five years. Dentists' appointments shall  
24 be made so that the term of one dentist member expires on July  
25 1 of each year. Public members' five-year terms begin at the

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1 date of appointment.

2 D. [~~Any~~] A board member failing to attend three  
3 board or committee meetings, either regular or special, during  
4 the board member's term shall automatically be removed as a  
5 member of the board unless excused from attendance by the board  
6 for good cause shown.

7 E. [~~No~~] A board member shall not serve more than  
8 two full terms.

9 F. In the event of [~~any~~] a vacancy, the secretary  
10 of the board shall immediately notify the governor, the board  
11 and [~~the~~] committee members and the New Mexico dental  
12 association of the reason for its occurrence and action taken  
13 by the board, so as to expedite appointment of a new board  
14 member.

15 G. The board shall meet quarterly every year. The  
16 board may also hold special meetings and emergency meetings in  
17 accordance with rules of the board upon written notice to all  
18 members of the board and committee.

19 H. Members of the board shall be reimbursed as  
20 provided in the Per Diem and Mileage Act and shall receive no  
21 other compensation, perquisite or allowance; however, the  
22 secretary-treasurer may be compensated at the discretion of the  
23 board.

24 I. A simple majority of the board members currently  
25 serving shall constitute a quorum, provided at least two of

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1 that quorum are not dentist members and three are dentist  
2 members.

3 J. The board shall elect officers annually as  
4 deemed necessary to administer its duties and as provided in  
5 its rules and regulations. "

6 Section 5. Section 61-5A-9 NMSA 1978 (being Laws 1994,  
7 Chapter 55, Section 9) is amended to read:

8 "61-5A-9. COMMITTEE CREATED. --

9 A. There is created the seven-member "New Mexico  
10 dental hygienists committee". The committee shall be  
11 administratively attached to the regulation and licensing  
12 department. The committee shall consist of five dental  
13 hygienists, one dentist and one public member. The dental  
14 hygienists [~~must~~] shall be actively practicing and have been  
15 licensed practitioners and residents of New Mexico for a period  
16 of five years preceding the date of their appointment. The  
17 dentist and public member shall be members of the board and  
18 shall be elected annually to sit on the committee by those  
19 members sitting on the board.

20 B. The governor may appoint the dental hygienists  
21 from a list of names submitted by the New Mexico dental  
22 [~~hygienists'~~] hygienists association. There may be one member  
23 from each district. The list submitted shall consist, whenever  
24 possible, of names of dental hygienists in the district being  
25 considered but may also include names of dental hygienists

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1 at-large. No more than two dental hygienists shall serve from  
2 the same district at one time. ~~[All]~~ Members shall serve until  
3 their successors have been appointed. ~~[No]~~ A member shall not  
4 be employed by or receive remuneration from a dental or dental  
5 hygiene educational institution.

6 C. Appointments for dental hygienist members shall  
7 be for terms of five years. Appointments shall be made so that  
8 the term of one dental hygienist expires on July 1 of each  
9 year.

10 D. ~~[Any]~~ A committee member failing to attend three  
11 committee or board meetings, either regular or special, during  
12 the committee member's term shall automatically be removed as a  
13 member of the committee unless excused from attendance by the  
14 committee for good cause shown. Members of the committee not  
15 sitting on the board shall not be required to attend board  
16 disciplinary hearings.

17 E. ~~[No]~~ A committee member shall not serve more  
18 than two full terms.

19 F. In the event of ~~[any]~~ a vacancy, the secretary  
20 of the committee shall immediately notify the governor, the  
21 committee and board members and the New Mexico dental  
22 ~~[hygienists']~~ hygienists hygienists association of the reason  
23 for its occurrence and action taken by the committee, so as to  
24 expedite appointment of a new committee member.

25 G. The committee shall meet quarterly every year.

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1 The committee may also hold special meetings and emergency  
2 meetings in accordance with the committee rules [~~and~~  
3 ~~regulations~~] upon written notification to all members of the  
4 committee and the board.

5 H. Members of the committee shall be reimbursed as  
6 provided in the Per Diem and Mileage Act and shall receive no  
7 other compensation, perquisite or allowance.

8 I. A simple majority of the committee members  
9 currently serving shall constitute a quorum, provided at least  
10 one of that quorum is not a hygienist member.

11 J. The committee shall elect officers annually as  
12 deemed necessary to administer its duties and as provided in  
13 the committee rules and regulations. "

14 Section 6. Section 61-5A-10 NMSA 1978 (being Laws 1994,  
15 Chapter 55, Section 10) is amended to read:

16 "61-5A-10. POWERS AND DUTIES OF THE BOARD AND  
17 COMMITTEE. -- In addition to any other authority provided by law,  
18 the board, [~~or~~] and the committee where designated, shall have  
19 the power to:

20 A. enforce and administer the provisions of the  
21 Dental Health Care Act;

22 B. adopt, publish, [~~and~~] file and revise, in  
23 accordance with the Uniform Licensing Act and the State Rules  
24 Act, all rules [~~and regulations~~] as may be necessary to:

25 (1) regulate the examination and licensure of

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1 dentists and, through the committee, regulate the examination  
2 and licensure of dental hygienists;

3 (2) provide for the examination and  
4 certification of dental assistants by the board;

5 (3) provide for the regulation of dental  
6 technicians by the board; and

7 (4) regulate the practice of dentistry, dental  
8 assisting and, through the committee, regulate the practice of  
9 dental hygiene;

10 C. adopt and use a seal;

11 D. administer oaths to all applicants, witnesses  
12 and others appearing before the board or the committee, as  
13 appropriate;

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

16 F. grant, deny, review, suspend and revoke licenses  
17 and certificates to practice dentistry, dental assisting and,  
18 through the committee, dental hygiene and censure, reprimand,  
19 fine and place on probation and stipulation dentists, dental  
20 assistants and, through the committee, dental hygienists, in  
21 accordance with the Uniform Licensing Act for any cause stated  
22 in the Dental Health Care Act;

23 G. maintain records in which the name, address and  
24 license number of [aH] licensees shall be recorded, together  
25 with a record of [aH] license renewals, suspensions,

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1 revocations, probations, stipulations, censures, reprimands and  
2 fines;

3 ~~[H. hire staff and administrators as necessary to~~  
4 ~~carry out the provisions of the Dental Health Care Act;~~

5 ~~I.]~~ H. establish ad hoc committees whose members  
6 shall be appointed by the chairman with the advice and consent  
7 of the board or committee, as it deems necessary for carrying  
8 on its business;

9 ~~[J.]~~ I. have the authority to pay per diem and  
10 mileage to individuals who are appointed by the board or the  
11 committee to serve on ad hoc committees;

12 ~~[K.]~~ J. have the authority to hire or contract with  
13 investigators to investigate possible violations of the Dental  
14 Health Care Act;

15 ~~[L. have the authority to hire an attorney to give~~  
16 ~~advice and counsel in regard to any matter connected with the~~  
17 ~~duties of the board and the committee, to represent the board~~  
18 ~~or the committee in any legal proceedings and to aid in the~~  
19 ~~enforcement of the laws in relation to the Dental Health Care~~  
20 ~~Act and to fix the compensation to be paid to such attorney;~~  
21 ~~provided, however, such attorney shall be compensated from the~~  
22 ~~funds of the board;~~

23 ~~M.]~~ K. have the authority to issue investigative  
24 subpoenas prior to the issuance of a notice of contemplated  
25 action for the purpose of investigating complaints against

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1 dentists, dental assistants and, through the committee, dental  
2 hygienists licensed under the Dental Health Care Act; and

3 ~~[N-]~~ L. establish continuing education or continued  
4 competency requirements for dentists, certified dental  
5 assistants in expanded functions, dental technicians and,  
6 through the committee, dental hygienists. "

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

9 "61-8-5. BOARD CREATED-- MEMBERS-- QUALIFICATIONS--  
10 TERMS-- VACANCIES-- REMOVAL. --

11 A. There is created a "board of podiatry". The  
12 board shall be administratively attached to the regulation and  
13 licensing department. The board shall consist of five members,  
14 three of whom shall be podiatrists licensed to practice in New  
15 Mexico who have been actively engaged in the practice of  
16 podiatry for at least three consecutive years immediately prior  
17 to their appointments and two members who shall represent the  
18 public and who shall not have been licensed as podiatrists, nor  
19 shall the public members have any significant financial  
20 interest, whether direct or indirect, in the occupation  
21 regulated.

22 B. Members of the board required to be licensed  
23 podiatrists shall be appointed by the governor. Board members  
24 shall be appointed for staggered terms of five years each, made  
25 in [~~such~~] a manner that the terms of not more than two board

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1 members end on December 31 of each year commencing with 1978.  
2 Board members shall serve until their successors have been  
3 appointed and qualified. A vacancy shall be filled for the  
4 unexpired term by appointment by the governor. ~~[All members of~~  
5 ~~the state board of podiatry in office on the effective date of~~  
6 ~~the Podiatry Act shall serve out their unexpired terms.]~~

7 C. The governor may remove ~~[any]~~ a member from the  
8 board for neglect of ~~[any]~~ a duty required by law, for  
9 incompetence, for improper or unprofessional conduct as defined  
10 by board rule or for any reason that would justify the  
11 suspension or revocation of his license to practice podiatry.

12 D. ~~[No]~~ A board member shall not serve more than  
13 two consecutive full terms, and ~~[any]~~ a member failing to  
14 attend, after proper notice, three consecutive meetings shall  
15 automatically be removed as a board member unless excused for  
16 reasons set forth in board rules.

17 E. In the event of a vacancy ~~[for any reason]~~, the  
18 secretary of the board shall immediately notify the governor  
19 and the board members of the vacancy, the reason for its  
20 occurrence and the action taken by the board, so as to expedite  
21 the appointment of a new board member. "

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

24 "61-8-6. BOARD ORGANIZATION--MEETINGS--COMPENSATION--  
25 POWERS AND DUTIES.--

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1           A. The board shall hold a regular meeting at least  
2 annually and shall elect annually a chairman, vice chairman and  
3 secretary-treasurer from its membership, each of whom shall  
4 serve until his successor is selected and qualified.

5           B. The board shall hold a minimum of one  
6 examination for licensure each year in the month of June or  
7 July at a place and at a time designated by the board. Notice  
8 of the examination shall be given to all applicants at least  
9 thirty days prior to the date of the examination.

10           C. Special meetings may be called by the chairman  
11 and shall be called upon the written request of any three board  
12 members. Notice of all meetings shall be made in conformance  
13 with the Open Meetings Act.

14           D. Members of the board may be reimbursed as  
15 provided in the Per Diem and Mileage Act, but shall receive no  
16 other compensation, perquisite or allowance.

17           E. The board shall:  
18               (1) administer and enforce the provisions of  
19 the Podiatry Act;  
20               (2) adopt, publish and file, in accordance  
21 with the Uniform Licensing Act and the State Rules Act, all  
22 rules for the implementation and enforcement of the provisions  
23 of the Podiatry Act;  
24               (3) adopt and use a seal;  
25               (4) conduct hearings, administer oaths and

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1 take testimony on any matters within the board's jurisdiction;

2 (5) keep an accurate record of [all] its  
3 meetings, receipts and disbursements;

4 (6) keep a record of [all] licensure  
5 examinations held, together with the names and addresses of  
6 [all] persons taking the examinations and the examination  
7 results. Within forty-five days after any examination, the  
8 board shall give written notice to each applicant examined of  
9 the results of the examination as to the respective applicant;

10 (7) certify as passing each applicant who  
11 obtains a passing score, as defined by board rule, on  
12 examinations administered or approved by the board;

13 (8) keep records of registration in which the  
14 name, address and license number of [all] licensed podiatrists  
15 are recorded, together with a record of [all] license renewals,  
16 suspensions and revocations;

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

22 (10) adopt and promulgate rules setting  
23 standards of preliminary and professional qualifications for  
24 the practice of podiatry;

25 (11) adopt and promulgate rules and prepare

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1 and administer examinations for the licensure and regulation of  
2 podiatric assistants as are necessary to protect the public.

3 The rules shall include definitions and limitations on the  
4 practice of podiatric assistants, qualifications for applicants  
5 for licensure, an initial license fee in an amount not to  
6 exceed two hundred fifty dollars (\$250) and a renewal fee not  
7 to exceed one hundred dollars (\$100) per year, provisions for  
8 the regulation of podiatric assistants and provisions for the  
9 suspension or revocation of licenses;

10 (12) determine by rule all qualifications and  
11 requirements for applicants seeking licensure as podiatrists or  
12 podiatric assistants; and

13 (13) adopt rules and prepare and administer  
14 examinations for applicants seeking licensure as foot and ankle  
15 radiation technologists [~~and~~

16 ~~(14) have the power to employ agents or~~  
17 ~~attorneys]. "~~

18 Section 9. Section 61-9-5 NMSA 1978 (being Laws 1989,  
19 Chapter 41, Section 5, as amended by Laws 1996, Chapter 51,  
20 Section 6 and also by Laws 1996, Chapter 54, Section 3) is  
21 amended to read:

22 "61-9-5. STATE BOARD OF EXAMINERS-- PSYCHOLOGY FUND. --

23 A. There is created a "New Mexico state board of  
24 psychologist examiners" [~~consisting~~]. The board shall be  
25 administratively attached to the regulation and licensing

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1 department. The board shall consist of eight members appointed  
2 by the governor who are residents of New Mexico and who shall  
3 serve for three-year staggered terms. The members shall be  
4 appointed as follows:

5 (1) four members shall be professional members  
6 who are licensed under the Professional Psychologist Act as  
7 psychologists. The governor shall appoint the professional  
8 members from a list of names nominated by the New Mexico  
9 psychological association, the state psychologist association  
10 and the New Mexico school psychologist association;

11 (2) one member shall be licensed under the  
12 Professional Psychologist Act as a psychologist or psychologist  
13 associate; and

14 (3) three members shall be public members who  
15 are laymen and have no significant financial interest, direct  
16 or indirect, in the practice of psychology.

17 B. ~~Each~~ A member shall hold office until the  
18 expiration of his appointed term or until a successor is duly  
19 appointed. When the term of ~~each~~ a member ends, the governor  
20 shall appoint his successor for a term of three years. ~~Any~~ A  
21 vacancy occurring in the board membership other than by  
22 expiration of term shall be filled by the governor by  
23 appointment for the unexpired term of the member. The governor  
24 may remove ~~any~~ a board member for misconduct, incompetency or  
25 neglect of duty.

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1           C. All money received by the board shall be  
2 credited to the "psychology fund". Money in the psychology  
3 fund at the end of the fiscal year shall not revert to the  
4 general fund and shall be used in accordance with the  
5 provisions of the Professional Psychologist Act. The members  
6 of the board may be reimbursed as provided in the Per Diem and  
7 Mileage Act, but shall receive no other compensation,  
8 perquisite or allowance."

9           Section 10. Section 61-9-6 NMSA 1978 (being Laws 1963,  
10 Chapter 92, Section 5, as amended by Laws 1996, Chapter 51,  
11 Section 7 and also by Laws 1996, Chapter 54, Section 4) is  
12 amended to read:

13           "61-9-6. BOARD--MEETING--POWERS.--

14           A. The board shall, annually in the month of July,  
15 hold a meeting and elect from its membership a chairman, vice  
16 chairman and secretary-treasurer. The board shall meet at  
17 [such] other times as it deems necessary or advisable or as  
18 deemed necessary and advisable by the chairman or a majority of  
19 its members or the governor. Reasonable notice of all meetings  
20 shall be given in the manner prescribed by the board. A  
21 majority of the board constitutes a quorum at [any] a meeting  
22 or hearing.

23           B. The board is authorized to:

24           (1) adopt and from time to time revise such  
25 rules and regulations not inconsistent with the law as may be

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1 necessary to carry into effect the provisions of the  
2 Professional Psychologist Act. [~~Such~~] The rules and  
3 regulations shall include [~~but not be limited to~~] a code of  
4 conduct for psychologists and psychologist associates in the  
5 state;

6 [~~(2) employ, within the funds available, an~~  
7 ~~administrator and other personnel necessary for the proper~~  
8 ~~performance of its work under the Professional Psychologist~~  
9 ~~Act;~~

10 [~~(3)~~] (2) adopt a seal, and the administrator  
11 shall have the care and custody of the seal;

12 [~~(4)~~] (3) examine for, approve, deny, revoke,  
13 suspend and renew the licensure of psychologist and  
14 psychologist associate applicants as provided in the  
15 Professional Psychologist Act;

16 [~~(5)~~] (4) conduct hearings upon complaints  
17 concerning the disciplining of a psychologist or psychologist  
18 associate; and

19 [~~(6)~~] (5) cause the prosecution and joinder  
20 of [~~all~~] persons violating the Professional Psychologist Act  
21 and incur necessary expenses therefor.

22 C. Within sixty days after the close of each fiscal  
23 year, the board shall submit a written [~~or printed~~] report,  
24 reviewed and signed by the board members, to the governor  
25 concerning the work of the board during the preceding fiscal

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1 year. The report shall include the names of [a++]  
2 psychologists and psychologist associates to whom licenses have  
3 been granted; [any] cases heard and decisions rendered in  
4 relation to the work of the board; the recommendations of the  
5 board as to future policies; [~~the names, remuneration and~~  
6 ~~duties of any employees of the board~~] and an account of all  
7 money received and expended by the board. "

8 Section 11. Section 61-10-5 NMSA 1978 (being Laws 1933,  
9 Chapter 117, Section 4, as amended) is amended to read:

10 "61-10-5. BOARD OF EXAMINERS--APPOINTMENT--TERMS--  
11 MEETINGS--MEMBERSHIP--EXAMINATIONS.--

12 A. There is created the "board of osteopathic  
13 medical examiners". The board shall be administratively  
14 attached to the regulation and licensing department. The board  
15 consists of five members appointed by the governor; three  
16 members shall be regularly licensed osteopathic physicians in  
17 good standing in New Mexico, who have been so engaged for a  
18 period of at least two years immediately prior to their  
19 appointment and who are possessed of all the qualifications for  
20 applicants for licensure specified in Section 61-10-8 NMSA  
21 1978, and two members shall represent the public. The public  
22 members of the board shall not have been licensed as  
23 osteopathic physicians, nor shall the public members have any  
24 significant financial interest, direct or indirect, in the  
25 occupation regulated.

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1           B. Board members' terms shall be for five years.  
2 The vacancy of the term of [~~any~~] a member shall be filled by  
3 appointment by the governor to the unexpired portion of the  
4 five-year term. A board member whose term has expired shall  
5 serve until his successor is appointed.

6           C. The board shall meet during the first quarter of  
7 the fiscal year and shall elect officers for the ensuing fiscal  
8 year. The board may hold other meetings as it deems necessary.  
9 A majority of the board constitutes a quorum.

10          D. The board shall have and use a common seal and  
11 is authorized to make and adopt all necessary rules and  
12 regulations relating to the enforcement of the provisions of  
13 Chapter 61, Article 10 NMSA 1978.

14          E. Examinations shall be made at least twice a year  
15 at the time and place fixed by the board. All applicants shall  
16 be given written notice of examinations at a reasonable prior  
17 date.

18          F. Members of the board shall be reimbursed as  
19 provided in the Per Diem and Mileage Act, but shall receive no  
20 other compensation, perquisite or allowance, for each day  
21 necessarily spent in the discharge of their duties.

22          G. [~~Any~~] A board member failing to attend three  
23 consecutive meetings, either regular or special, shall  
24 automatically be removed as a member of the board. "

25          Section 12. Section 61-11-4 NMSA 1978 (being Laws 1969,

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1 Chapter 29, Section 3, as amended) is amended to read:

2 "61-11-4. BOARD CREATED-- MEMBERS-- QUALIFICATIONS--  
3 TERMS-- VACANCIES-- REMOVAL. --

4 A. There is created the "board of pharmacy". The  
5 board shall be administratively attached to the regulation and  
6 licensing department. The board consists of nine members, each  
7 of whom shall be a citizen of the United States and a resident  
8 of New Mexico.

9 B. Five members shall be pharmacists appointed by  
10 the governor for staggered terms of five years each from lists  
11 submitted to the governor by the New Mexico pharmaceutical  
12 association, which lists contain the names of two pharmacists  
13 residing in each of the five pharmacy districts. [~~One of the~~  
14 ~~pharmacist members shall be appointed for a term ending July 1,~~  
15 ~~1970 and one pharmacist member shall be appointed for a term~~  
16 ~~ending on July 1 of each of the following four years.~~

17 ~~Thereafter]~~ Appointments of pharmacist members shall be made  
18 for five years or less each and made in such a manner that the  
19 term of one pharmacist member expires on July 1 of each year.  
20 One pharmacist member shall be appointed from each pharmacy  
21 district. [~~Each]~~ A pharmacist member of the board shall have  
22 been actively engaged in the pharmaceutical profession in this  
23 state for at least three years immediately prior to his  
24 appointment and shall have had a minimum of eight years of  
25 practical experience as a pharmacist. A vacancy shall be

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1 filled by appointment by the governor for the unexpired term  
2 from lists submitted by the New Mexico pharmaceutical  
3 association to the governor. Pharmacist members shall reside  
4 in the district from which they are appointed.

5 C. Three members of the board shall be appointed by  
6 the governor to represent the public. The public members of  
7 the board shall not have been licensed as pharmacists or have  
8 any significant financial interest, whether direct or indirect,  
9 in the profession regulated. A vacancy in a public member's  
10 term shall be filled by appointment by the governor for the  
11 unexpired term. Initial appointments of public members shall  
12 be made for staggered terms of five years or less [each] and  
13 made in such a manner that not more than two public members'  
14 terms shall expire on July 1 of each year.

15 D. One member of the board shall be a pharmacist  
16 appointed at large from a list submitted to the governor by the  
17 New Mexico society of health systems pharmacists. The member  
18 shall be appointed by the governor to a term of five years. A  
19 vacancy in the member's term shall be filled by appointment by  
20 the governor for the unexpired term from a list submitted to  
21 the governor by the New Mexico society of health systems  
22 pharmacists.

23 E. There are created five pharmacy districts as  
24 follows:

25 (1) northeast district, which shall be

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1 composed of the counties of Colfax, Guadalupe, Harding, Los  
2 Alamos, Mora, Quay, Rio Arriba, Sandoval, San Miguel, Santa Fe,  
3 Taos, Torrance and Union;

4 (2) northwest district, which shall be  
5 composed of the counties of McKinley, San Juan, Valencia and  
6 Cibola;

7 (3) central district, which shall be composed  
8 of the county of Bernalillo;

9 (4) southeast district, which shall be  
10 composed of the counties of Chaves, Curry, De Baca, Eddy, Lea  
11 and Roosevelt; and

12 (5) southwest district, which shall be  
13 composed of the counties of Catron, Dona Ana, Grant, Hidalgo,  
14 Lincoln, Luna, Otero, Sierra and Socorro.

15 F. ~~[No]~~ A board member shall not serve more than  
16 two full terms, consecutive or otherwise.

17 G. ~~[Any]~~ A board member failing to attend three  
18 consecutive regular meetings is automatically removed as a  
19 member of the board.

20 H. The governor may remove ~~[any]~~ a member of the  
21 board for neglect of ~~[any]~~ a duty required by law, for  
22 incompetency or for unprofessional conduct and shall remove  
23 ~~[any]~~ a board member who violates ~~[any]~~ a provision of the  
24 Pharmacy Act. "

25 Section 13. Section 61-12A-8 NMSA 1978 (being Laws 1996,

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1 Chapter 55, Section 8) is amended to read:

2 "61-12A-8. BOARD CREATED. --

3 A. The "board of examiners for occupational  
4 therapy" is created.

5 B. The board shall be administratively attached to  
6 the regulation and licensing department.

7 [~~B.-~~] C. The board shall consist of five members  
8 appointed by the governor who have been residents of the state  
9 for two years preceding the appointment.

10 [~~C.-~~] D. Three members shall be licensed under the  
11 provisions of the Occupational Therapy Act; have a minimum of  
12 five years' professional experience, with two years' experience  
13 in New Mexico; and have not had their licenses suspended or  
14 revoked by this or any other state. One of the professional  
15 members may be a certified occupational therapy assistant; and  
16 one of the professional members may be a retired registered  
17 occupational therapist.

18 [~~D.-~~] E. Two members shall represent the public.  
19 The two public members shall have no direct interest in the  
20 profession of occupational therapy. The public members shall  
21 not:

- 22 (1) have been convicted of a felony;
- 23 (2) be habitually intemperate or be addicted  
24 to the use of habit-forming drugs or be addicted to [~~any~~] a  
25 vice to such a degree as to render him unfit to fulfill his

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1 board duties and responsibilities; or

2 (3) be guilty of ~~[any]~~ a violation of the  
3 Controlled Substances Act.

4 ~~[E.]~~ F. Appointments shall be made for staggered  
5 terms of three years with no more than two terms ending at any  
6 one time. ~~[No]~~ A board member shall not serve more than two  
7 consecutive terms. Vacancies shall be filled for the unexpired  
8 term by appointment by the governor prior to the next scheduled  
9 board meeting.

10 ~~[F. No]~~ G. An individual member of the board ~~[is]~~  
11 shall not be liable in a civil or criminal action for ~~[any]~~ an  
12 act performed in good faith in the execution of his duties as a  
13 member of the board.

14 ~~[G.]~~ H. Members of the board shall be reimbursed  
15 for per diem and travel expenses as provided in the Per Diem  
16 and Mileage Act and shall receive no other compensation,  
17 perquisite or allowance.

18 ~~[H.]~~ I. A simple majority of the board members  
19 currently serving shall constitute a quorum of the board for  
20 the conduct of business.

21 ~~[I.]~~ J. The board shall meet at least four times a  
22 year and at ~~[such]~~ other times as it deems necessary.  
23 Additional meetings may be convened at the call of the  
24 president of the board or on the written request of any two  
25 board members to the president. Meetings of the board shall be

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1 conducted in accordance with the provisions of the Open  
2 Meetings Act.

3 [J.—Any] K. A member failing to attend three  
4 consecutive meetings, unless excused as provided by board  
5 policy, shall automatically be recommended for removal as a  
6 member of the board.

7 [K.—] L. At the beginning of each fiscal year, the  
8 board shall elect a president, vice president and [a]  
9 secretary-treasurer. "

10 Section 14. Section 61-12A-9 NMSA 1978 (being Laws 1996,  
11 Chapter 55, Section 9) is amended to read:

12 "61-12A-9. BOARD--POWERS AND DUTIES. --

13 A. The board shall:

14 (1) adopt, file, amend or repeal rules and  
15 regulations in accordance with the Uniform Licensing Act to  
16 carry out the provisions of the Occupational Therapy Act;

17 (2) use funds for the purpose of meeting the  
18 necessary expenses incurred in carrying out the provisions of  
19 the Occupational Therapy Act;

20 (3) adopt a code of ethics;

21 (4) enforce the provisions of the Occupational  
22 Therapy Act to protect the public by conducting hearings on  
23 charges relating to the discipline of licensees, including the  
24 denial, suspension or revocation of a license;

25 (5) establish and collect fees;

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1 (6) provide for examination for and issuance,  
2 renewal and reinstatement of licenses;

3 (7) establish, impose and collect fines for  
4 violations of the Occupational Therapy Act;

5 (8) appoint a registrar to keep records and  
6 minutes necessary to carry out the functions of the board; and

7 (9) obtain the legal assistance of the  
8 attorney general.

9 B. The board may:

10 [~~(1)~~] ~~hire or contract with an attorney to give~~  
11 ~~advice and counsel in regard to any matter connected with the~~  
12 ~~duties of the board, to represent the board in any legal~~  
13 ~~proceedings and to aid in the enforcement of the Occupational~~  
14 ~~Therapy Act. The board shall set the compensation of the~~  
15 ~~attorney to be paid from the funds of the board;~~

16 (2)] (1) issue investigative subpoenas for the  
17 purpose of investigating complaints against licensees prior to  
18 the issuance of a notice of contemplated action;

19 [~~(3)~~] (2) hire or contract with an  
20 investigator to investigate complaints that have been filed  
21 with the board. The board shall set the compensation of the  
22 investigator to be paid from the funds of the board;

23 [~~(4)~~] (3) inspect establishments; and

24 [~~(5)~~] (4) designate hearing officers. "

25 Section 15. Section 61-12A-10 NMSA 1978 (being Laws 1996,



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1 Chapter 55, Section 10) is amended to read:

2 "61-12A-10. BOARD-- ADMINISTRATIVE PROCEDURES. --

3 [A. ~~The board may employ and discharge such~~  
4 ~~employees as it deems necessary and shall determine their~~  
5 ~~duties and set their compensation.~~

6 B.] The board shall appoint a registrar who is  
7 either the board member elected as the secretary-treasurer or  
8 such other person as the board may designate who is an employee  
9 of [the board or] the state. The registrar of the board may  
10 receive reimbursement for necessary expenses incurred in  
11 carrying out his duties [and, if he is an employee, such  
12 compensation as the board may set]. The registrar shall keep a  
13 written record in which shall be registered the name, license  
14 number, date of license issuance, current address, record of  
15 annual license fee payments, minutes and any other data as the  
16 board deems necessary regarding licensees. "

17 Section 16. Section 61-12B-5 NMSA 1978 (being Laws 1984,  
18 Chapter 103, Section 5, as amended) is amended to read:

19 "61-12B-5. ADVISORY BOARD CREATED. --

20 A. The superintendent shall appoint an "advisory  
21 board of respiratory care practitioners" consisting of five  
22 members as follows:

- 23 (1) one physician licensed in New Mexico who  
24 is knowledgeable in respiratory care;  
25 (2) two respiratory care practitioners who are

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1 residents of New Mexico, licensed by the department and in good  
2 standing. At least one of the respiratory care practitioners  
3 shall have been actively engaged in the practice of respiratory  
4 care for at least five years immediately preceding appointment  
5 or reappointment; and

6 (3) two public members who are residents of  
7 New Mexico. A public member shall not have been licensed as a  
8 respiratory care practitioner nor shall he have any financial  
9 interest, direct or indirect, in the occupation to be  
10 regulated.

11 B. The board shall be administratively attached to  
12 the department.

13 [~~B.-~~] C. A member shall serve no more than two  
14 consecutive three-year terms.

15 [~~C.-~~] D. A member of the board shall receive per  
16 diem and mileage as provided for nonsalaried public officers in  
17 the Per Diem and Mileage Act and shall receive no other  
18 compensation, perquisite or allowance in connection with the  
19 discharge of his duties as a board member.

20 [~~D.-~~] E. A member failing to attend three  
21 consecutive regular and properly noticed meetings of the board  
22 without a reasonable excuse shall be automatically removed from  
23 the board.

24 [~~E.-~~] F. In the event of a vacancy, the board shall  
25 immediately notify the superintendent of the vacancy. Within

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1 ninety days of receiving notice of a vacancy, the  
2 superintendent shall appoint a qualified person to fill the  
3 remainder of the unexpired term.

4 [F-] G. A majority of the board members currently  
5 serving constitutes a quorum of the board.

6 [G-] H. The board shall meet at least twice a year  
7 and at such other times as it deems necessary.

8 [H-] I. The board shall annually elect officers as  
9 deemed necessary to administer its duties. "

10 Section 17. Section 61-12D-4 NMSA 1978 (being Laws 1997,  
11 Chapter 89, Section 4) is amended to read:

12 "61-12D-4. BOARD CREATED. --

13 A. The "physical therapy board" is created. The  
14 board shall be administratively attached to the regulation and  
15 licensing department. The board shall consist of five members  
16 appointed by the governor. Three members shall be physical  
17 therapists who are residents of the state, who possess  
18 unrestricted licenses to practice physical therapy and who have  
19 been practicing in New Mexico for no less than five years. Two  
20 members shall be citizens appointed from the public at large  
21 who are not associated with, or financially interested in, any  
22 health care profession.

23 B. [A+] Appointments shall be made for staggered  
24 terms of three years with no more than two terms ending at any  
25 one time. [N+] A member shall not serve for more than two

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1 successive three-year terms. Vacancies shall be filled for the  
2 unexpired term by appointment by the governor prior to the next  
3 scheduled board meeting. Board members shall continue to serve  
4 until a successor has been appointed and qualified.

5 C. The members shall elect a chairman and may elect  
6 other officers as they deem necessary.

7 D. The governor may remove ~~any~~ a member of the  
8 board for misconduct, incompetence or neglect of duty.

9 E. Members may receive per diem and mileage  
10 pursuant to the Per Diem and Mileage Act, but shall receive no  
11 other compensation, perquisite or allowance.

12 F. There shall be no liability on the part of and  
13 no action for damages against any board member when the member  
14 is acting within the scope of his duties."

15 Section 18. Section 61-12D-5 NMSA 1978 (being Laws 1997,  
16 Chapter 89, Section 5) is amended to read:

17 "61-12D-5. POWERS AND DUTIES. --The board:

18 A. shall examine all applicants for licensure to  
19 practice physical therapy and issue licenses or permits to  
20 those who are duly qualified;

21 B. shall regulate the practice of physical therapy  
22 by interpreting and enforcing the provisions of the Physical  
23 Therapy Act, including taking disciplinary action;

24 C. may adopt, file, amend or repeal rules and  
25 regulations in accordance with the Uniform Licensing Act to

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1 carry out the provisions of the Physical Therapy Act;

2 D. may meet as often as [~~the board~~] it deems  
3 necessary. A majority of the members constitutes a quorum for  
4 the transaction of business. The board shall keep an official  
5 record of all its proceedings;

6 E. may establish requirements for assessing  
7 continuing competency;

8 F. may collect fees;

9 G. may elect such officers as it deems necessary  
10 for the operations and obligations of the board. Terms of  
11 office shall be one year;

12 H. shall provide for the timely orientation and  
13 training of new professional and public appointees to the  
14 board, including training in licensing and disciplinary  
15 procedures and orientation to all statutes, rules, policies and  
16 procedures of the board;

17 [~~I. may employ a director and other personnel to  
18 carry out the administrative work of the board;~~

19 ~~J. may hire an attorney to give advice and counsel  
20 in regard to any matter connected with the duties of the board,  
21 to represent the board in any legal proceedings and to aid in  
22 the enforcement of the Physical Therapy Act, and shall fix the  
23 compensation to be paid to such attorney;~~

24 ~~K.]~~ I. may establish ad hoc committees and pay per  
25 diem and mileage to the members;

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1           ~~[L-]~~ J. may enter into contracts;

2           ~~[M-]~~ K. shall report final disciplinary action  
3 taken against a physical therapist or physical therapist  
4 assistant to the national disciplinary database;

5           ~~[N-]~~ L. shall publish at least annually final  
6 disciplinary action taken against any physical therapist or  
7 physical therapist assistant; and

8           ~~[O-]~~ M. may prescribe the forms of license  
9 certificates, application forms and such other documents as it  
10 deems necessary to carry out the provisions of the Physical  
11 Therapy Act. "

12           Section 19. Section 61-13-4 NMSA 1978 (being Laws 1970,  
13 Chapter 61, Section 3, as amended) is amended to read:

14           "61-13-4. BOARD OF NURSING HOME ADMINISTRATORS. --

15           A. There is created the "board of nursing home  
16 administrators" ~~[consisting]~~. The board shall be  
17 administratively attached to the regulation and licensing  
18 department. The board shall consist of seven members appointed  
19 by the governor to three-year terms staggered so that no more  
20 than three terms expire in any one year. Three members of the  
21 board shall be nursing home administrators licensed and  
22 practicing under the Nursing Home Administrators Act for a  
23 minimum of five years and who have never been disciplined by  
24 the board, one member shall be a practicing physician licensed  
25 in this state and three members shall be from the public who

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1 have no significant financial interest, direct or indirect, in  
2 the nursing home industry.

3 B. Within ninety days of a vacancy, the governor  
4 shall appoint a person to fill the unexpired portion of the  
5 term. Board members shall be citizens of the United States and  
6 residents of the state, and not more than one member shall be  
7 an employee of ~~any~~ a state or other public agency. "

8 Section 20. Section 61-13-6 NMSA 1978 (being Laws 1970,  
9 Chapter 61, Section 5, as amended) is amended to read:

10 "61-13-6. DUTIES OF THE BOARD. --It is the duty of the  
11 board to:

12 A. formulate, adopt and regularly revise such rules  
13 and regulations not inconsistent with law as may be necessary  
14 to adopt and enforce standards for licensing nursing home  
15 administrators and to carry into effect the provisions of the  
16 Nursing Home Administrators Act;

17 B. approve for licensure applicants for:

18 (1) initial licensure;

19 (2) annual renewal of current, active

20 licenses;

21 (3) reciprocity;

22 (4) reinstatement of revoked or suspended

23 licenses; and

24 (5) reactivation of inactive or expired

25 licenses;

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1 C. cause the prosecution or enjoinder of all  
2 persons violating the Nursing Home Administrators Act and deny,  
3 suspend or revoke licenses in accordance with the provisions of  
4 the Uniform Licensing Act;

5 D. submit a written annual report to the governor  
6 and the legislature detailing the actions of the board and  
7 including an accounting of all money received and expended by  
8 the board; and

9 ~~[E. employ such administrative personnel as may be~~  
10 ~~necessary for the efficient operation of the Nursing Home~~  
11 ~~Administrators Act; and~~

12 ~~F.]~~ E. maintain a register of licensees and a  
13 record of all applicants for licensure received by the board. "

14 Section 21. Section 61-14A-8 NMSA 1978 (being Laws 1993,  
15 Chapter 158, Section 16, as amended) is amended to read:

16 "61-14A-8. BOARD--POWERS. -- ~~[In addition to any authority~~  
17 ~~provided by law]~~ The board has the power to:

18 A. enforce the provisions of the Acupuncture and  
19 Oriental Medicine Practice Act;

20 B. adopt, publish and file, in accordance with the  
21 Uniform Licensing Act and the State Rules Act, all rules  
22 necessary for the implementation and enforcement of the  
23 provisions of the Acupuncture and Oriental Medicine Practice  
24 Act;

25 C. adopt a code of ethics;



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1 D. adopt and use a seal;

2 E. inspect facilities of approved educational  
3 programs, extern programs and the offices of licensees;

4 F. adopt rules implementing continuing education  
5 requirements for the purpose of protecting the health and well-  
6 being of the citizens of this state and maintaining and  
7 continuing informed professional knowledge and awareness;

8 ~~[G. employ such professional and clerical~~  
9 ~~assistance as necessary to carry out the powers and duties of~~  
10 ~~the board;~~

11 ~~H.]~~ G. issue investigative subpoenas for the  
12 purpose of investigating complaints against licensees prior to  
13 the issuance of a notice of contemplated action;

14 ~~[I.]~~ H. administer oaths and take testimony on any  
15 matters within the board's jurisdiction;

16 ~~[J.]~~ I. conduct hearings upon charges relating to  
17 the discipline of licensees, including the denial, suspension  
18 or revocation of a license in accordance with the Uniform  
19 Licensing Act; and

20 ~~[K.]~~ J. grant, deny, renew, suspend or revoke  
21 licenses to practice acupuncture and oriental medicine or  
22 grant, deny, renew, suspend or revoke approvals of educational  
23 programs and extern programs in accordance with the provisions  
24 of the Uniform Licensing Act for any cause stated in the  
25 Acupuncture and Oriental Medicine Practice Act or the rules of

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1 the board. "

2 Section 22. Section 61-14B-11 NMSA 1978 (being Laws 1996,  
3 Chapter 57, Section 11) is amended to read:

4 "61-14B-11. BOARD POWERS AND DUTIES. --The board shall:

5 A. adopt rules and regulations and establish policy  
6 necessary to carry out the provisions of the Speech Language  
7 Pathology, Audiology and Hearing Aid Dispensing Practices Act  
8 in accordance with the Uniform Licensing Act;

9 B. adopt rules implementing continuing education  
10 requirements;

11 C. adopt a code of ethics;

12 D. conduct hearings upon charges relating to the  
13 discipline of licensees, including the denial, suspension or  
14 revocation of a license in accordance with the Uniform  
15 Licensing Act;

16 E. investigate complaints against licensees by  
17 issuing investigative subpoenas prior to the issuance of a  
18 notice of contemplated action;

19 ~~[F. hire staff as may be necessary to carry out the~~  
20 ~~provisions of the Speech Language Pathology, Audiology and~~  
21 ~~Hearing Aid Dispensing Practices Act;~~

22 ~~G.]~~ F. establish fees for licensure;

23 ~~[H.]~~ G. provide for the licensing and renewal of  
24 licenses of applicants; and

25 ~~[I.]~~ H. adopt rules that provide for licensure by

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1 reciprocity, including temporary permits for speech language  
2 pathologists, audiologists or hearing aid dispensers. "

3 Section 23. Section 61-17A-7 NMSA 1978 (being Laws 1993,  
4 Chapter 171, Section 7, as amended) is amended to read:

5 "61-17A-7. BOARD POWERS AND DUTIES. --

6 A. The board shall:

7 (1) adopt and file, in accordance with the  
8 State Rules Act, rules [~~and regulations~~] necessary to carry out  
9 the provisions of the Barbers and Cosmetologists Act;

10 (2) establish fees;

11 (3) provide for the examination, licensure and  
12 license renewal of applicants for licensure;

13 (4) establish standards for and provide for  
14 the examination, licensure and license renewal of manicurists-  
15 pedicurists, estheticians and electrologists;

16 (5) adopt a seal;

17 (6) furnish copies of rules [~~and regulations~~]  
18 and sanitary requirements adopted by the board to each owner or  
19 manager of an establishment, enterprise or school;

20 (7) keep a record of its proceedings and a  
21 register of applicants for licensure;

22 (8) provide for the licensure of barbers,  
23 cosmetologists, [~~manicurist-pedicurists~~] manicurists-  
24 pedicurists, estheticians, electrologists, instructors,  
25 schools, enterprises and establishments;

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1 (9) establish administrative penalties and  
2 fines;

3 (10) create and establish standards and  
4 fees for special licenses; and

5 [~~(11) hire an executive director and such~~  
6 ~~other staff as is necessary to carry out the provisions of the~~  
7 ~~Barbers and Cosmetologists Act; and~~

8 ~~(12)]~~ (11) establish guidelines for schools to  
9 calculate tuition refunds for withdrawing students.

10 B. The board may establish continuing education  
11 requirements as requirements for licensure.

12 C. ~~[Any]~~ A member of the board, its employees or  
13 agents may enter and inspect ~~[any]~~ a school, enterprise or  
14 establishment at any time during regular business hours for the  
15 purpose of determining compliance with the Barbers and  
16 Cosmetologists Act. "

17 Section 24. Section 61-24B-6 NMSA 1978 (being Laws 1985,  
18 Chapter 151, Section 6, as amended) is amended to read:

19 "61-24B-6. BOARD CREATED-- MEMBERS-- QUALIFICATIONS--  
20 TERMS-- VACANCIES-- REMOVAL. --

21 A. The "board of landscape architects" is created.  
22 The board is administratively attached to the regulation and  
23 licensing department. The board shall consist of five members,  
24 three of whom shall be landscape architects. The landscape  
25 architect members shall have been registered as landscape

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1 architects for at least five years. The two public members  
2 shall represent the public and shall not have been licensed as  
3 landscape architects or have any significant financial  
4 interest, direct or indirect, in the occupation regulated.

5 B. The members of the board shall be appointed by  
6 the governor for staggered terms of three years, and  
7 appointments shall be made in [~~such~~] a manner that the terms of  
8 board members expire on June 30. The landscape architect  
9 members of the board shall be appointed from lists submitted to  
10 the governor by the New Mexico chapter of the American society  
11 of landscape architects. A vacancy shall be filled by  
12 appointment by the governor for the unexpired term and shall be  
13 filled by persons having similar qualifications to those of the  
14 member being replaced. Board members shall serve until their  
15 successors have been appointed and qualified.

16 C. The board shall meet within sixty days of the  
17 beginning of a fiscal year and elect from its membership a  
18 chairman and vice chairman. The board shall meet at [~~such~~]  
19 other times as it deems necessary or advisable or as deemed  
20 necessary and advisable by the chairman or a majority of its  
21 members or the governor, but in no event less than twice a  
22 year. Reasonable notice of all meetings shall be given in the  
23 manner prescribed by the board. A majority of the board shall  
24 constitute a quorum at any meeting or hearing.

25 D. The governor may remove [~~any~~] a member from the

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1 board for neglect of [~~any~~] a duty required by law, for  
2 incompetence, for improper or unprofessional conduct as defined  
3 by board rule or for any reason that would justify the  
4 suspension or revocation of his registration to practice  
5 landscape architecture.

6 E. [~~No~~] A board member shall not serve more than  
7 two consecutive full terms, and [~~any~~] a member failing to  
8 attend, after proper notice, three consecutive meetings shall  
9 automatically be removed as a board member, unless excused for  
10 reasons set forth in board rules.

11 F. Members of the board shall be reimbursed as  
12 provided in the Per Diem and Mileage Act and shall receive no  
13 other compensation, perquisite or allowance."

14 Section 25. Section 61-24B-7 NMSA 1978 (being Laws 1985,  
15 Chapter 151, Section 7, as amended) is amended to read:

16 "61-24B-7. BOARD--POWERS AND DUTIES.--The board shall:

17 A. promulgate rules necessary to effectuate the  
18 provisions of the Landscape Architects Act;

19 [~~B. employ such persons as necessary to carry out~~  
20 ~~the provisions of the Landscape Architects Act;~~

21 ~~C.]~~ B. provide for the examination, registration  
22 and re-registration of [~~all~~] applicants;

23 [~~D.]~~ C. adopt and use a seal;

24 [~~E.]~~ D. administer oaths and take testimony on  
25 matters within the board's jurisdiction;

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1           ~~[F-]~~ E. grant, deny, renew, suspend or revoke  
2 certificates of registration to practice landscape architecture  
3 in accordance with the provisions of the Uniform Licensing Act  
4 for any cause stated in the Landscape Architects Act;

5           ~~[G-]~~ F. conduct hearings upon charges relating to  
6 discipline of a registrant or the denial, suspension or  
7 revocation of a certificate of registration; and

8           ~~[H-]~~ G. in cooperation with the state board of  
9 examiners for architects and the state board of licensure for  
10 professional engineers and surveyors, create a joint standing  
11 committee to be known as the "joint practice committee" to  
12 safeguard life, health and property and to promote the public  
13 welfare. The committee shall promote and develop the highest  
14 professional standards in design, planning and construction and  
15 the resolution of ambiguities concerning the professions. The  
16 composition of this committee and its powers and duties shall  
17 be in accordance with identical resolutions adopted by each  
18 board. "

19           Section 26. Section 61-24C-4 NMSA 1978 (being Laws 1989,  
20 Chapter 53, Section 4, as amended) is amended to read:

21           "61-24C-4. INTERIOR DESIGN BOARD CREATED-- MEMBERS--  
22 TERMS-- COMPENSATION. --

23           A. There is created the "interior design board".  
24 The board shall be administratively attached to the regulation  
25 and licensing department. The board shall consist of five

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1 members appointed by the governor for staggered terms of three  
2 years, appointed in [~~such~~] a manner that the term of one member  
3 shall expire on December 31, 1990; the terms of two members  
4 shall expire on December 31, 1991; and the terms of the last  
5 two members shall expire on December 31, 1992. Thereafter,  
6 members shall be appointed for terms of three years or less in  
7 [~~such~~] a manner that the terms of not more than two members  
8 expire on December 31 of each year. A vacancy shall be filled  
9 by appointment [~~of~~] by the governor for the unexpired term  
10 [~~No~~] A board member shall not serve consecutive terms.

11 B. Two members of the board shall be licensed  
12 interior designers and three members shall be chosen to  
13 represent the public and shall not have been licensed as [~~an~~]  
14 interior [~~designer~~] designers or have [~~any~~] a significant  
15 financial interest, direct or indirect, in the occupation  
16 regulated. For purposes of this section, the interior designer  
17 members of the initial board shall have offered interior design  
18 services for at least five years, shall have passed the  
19 national council for interior design qualification examination  
20 and shall have become registered by November 1, 1989.

21 C. Three members of the board shall constitute a  
22 quorum for the transaction of business, but no final action  
23 shall be taken unless at least three members vote in favor of a  
24 proposal. "

25 Section 27. Section 61-24C-5 NMSA 1978 (being Laws 1989,

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1 Chapter 53, Section 5 as amended) is amended to read:

2 "61-24C-5. POWERS AND DUTIES OF THE BOARD. -- The board:

3 A. shall administer, coordinate and enforce the  
4 provisions of the Interior Designers Act. The board may  
5 investigate allegations of violations of the provisions of the  
6 Interior Designers Act;

7 B. shall adopt regulations to carry out the  
8 purposes and policies of the Interior Designers Act, including  
9 regulations relating to professional conduct, standards of  
10 performance and professional examination and licensure,  
11 reasonable license, application, renewal and late fees and the  
12 establishment of ethical standards of practice for persons  
13 holding a license to practice as an interior designer in New  
14 Mexico;

15 [~~C. may employ an executive director and other~~  
16 ~~employees and fix their compensation;~~

17 [~~D. may contract with the regulation and licensing~~  
18 ~~department to obtain office space and administrative services;~~

19 ~~E.]~~ C. shall require a licensee, as a condition of  
20 the renewal of his license, to undergo continuing education  
21 requirements as set forth in the Interior Designers Act;

22 [~~F.]~~ D. shall maintain an official roster showing  
23 the name, address and license number of each interior designer  
24 licensed pursuant to the Interior Designers Act;

25 [~~G.]~~ E. shall conduct hearings and keep records and

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1 minutes necessary to carry out its functions;

2           ~~[H.]~~ F. may adopt a common seal for use by interior  
3 designers; and

4           ~~[I.]~~ G. shall do all things reasonable and  
5 necessary to carry out the purposes of the Interior Designers  
6 Act. "

7           Section 28. Section 61-28B-4 NMSA 1978 (being Laws 1999,  
8 Chapter 179, Section 4) is amended to read:

9           "61-28B-4. BOARD CREATED--TERMS--OFFICERS--MEETINGS--  
10 REIMBURSEMENT.--

11           A. The "New Mexico public accountancy board" is  
12 created ~~[composed]~~. The board shall be administratively  
13 attached to the regulation and licensing department. The board  
14 shall consist of seven members appointed by the governor who  
15 are citizens of the United States and residents of New Mexico.  
16 Four members of the board shall be certified public accountants  
17 or registered public accountants who have practiced for at  
18 least five calendar years immediately preceding their  
19 appointment to the board. Three members shall represent the  
20 public and shall not have ever held a certificate or permit to  
21 practice public accountancy in any state and shall not have  
22 ever had a significant financial interest, direct or indirect,  
23 in the public accountancy profession or in a firm. Public  
24 members shall have professional or practical experience in the  
25 use of accounting services and financial statements, so as to

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1 be qualified to make judgments about the qualifications and  
2 conduct of persons subject to the provisions of the 1999 Public  
3 Accountancy Act.

4 B. Members of the board shall serve for terms of  
5 three years or less, staggered in [~~such~~] a manner that the  
6 terms of not more than three members expire on January 1 of  
7 each year; provided that members appointed and serving pursuant  
8 to prior law on the effective date of the 1999 Public  
9 Accountancy Act shall serve the remainder of their terms. A  
10 vacancy on the board shall be filled by appointment by the  
11 governor for the unexpired term. Upon the expiration of a  
12 member's term of office, he shall continue to serve until his  
13 successor has been appointed and qualified. A professional  
14 member of the board whose certificate is suspended or revoked  
15 shall automatically cease to be a member of the board. The  
16 governor may remove a member of the board for neglect of duty  
17 or other just cause.

18 C. The board shall elect annually from among its  
19 members a chairman and [~~such~~] other officers as the board  
20 determines. The board shall meet at [~~such~~] times and places as  
21 fixed by the board. A majority of the board constitutes a  
22 quorum.

23 D. Members of the board may receive per diem and  
24 travel expenses as provided in the Per Diem and Mileage Act,  
25 but shall receive no other compensation, perquisite or

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1 allowance. "

2 Section 29. Section 61-28B-5 NMSA 1978 (being Laws 1999,  
3 Chapter 179, Section 5) is amended to read:

4 "61-28B-5. BOARD-- POWERS AND DUTIES. --

5 A. The board may:

6 [~~(1)~~] ~~employ an executive director as an exempt~~  
7 ~~employee and such other personnel as it deems necessary to~~  
8 ~~carry out its duties;~~

9 (2) (1) appoint committees or persons to  
10 advise or assist it in carrying out the provisions of the 1999  
11 Public Accountancy Act;

12 [~~(3)~~] (2) retain its own counsel to advise and  
13 assist it in addition to advice and assistance provided by the  
14 attorney general;

15 [~~(4)~~] (3) contract, sue and be sued and have  
16 and use a seal;

17 [~~(5)~~] (4) cooperate with the appropriate  
18 authorities in other states in investigation and enforcement  
19 concerning violations of the 1999 Public Accountancy Act and  
20 comparable acts of other states; and

21 [~~(6)~~] (5) adopt and file in accordance with  
22 the Uniform Licensing Act and the State Rules Act rules to  
23 carry out the provisions of the 1999 Public Accountancy Act,  
24 including rules governing the administration and enforcement of  
25 the 1999 Public Accountancy Act and the conduct of certificate

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1 and permit holders.

2 B. The board shall maintain a registry of the names  
3 and addresses of ~~all~~ certificate and permit holders. "

4 Section 30. Section 61-29-4 NMSA 1978 (being Laws 1959,  
5 Chapter 226, Section 3, as amended) is amended to read:

6 "61-29-4. CREATION OF COMMISSION-- POWERS AND DUTIES. --

7 There is created the "New Mexico real estate commission"  
8 ~~[called "the commission" in Chapter 61, Article 29 NMSA 1978].~~

9 The commission shall be appointed by the governor and shall  
10 consist of five members who shall have been residents of the  
11 state for three consecutive years immediately prior to their  
12 appointment, four of whom shall have been real estate brokers  
13 licensed in New Mexico and one of whom shall be a member of the  
14 public who has never been licensed as a real estate broker or  
15 salesperson; provided not more than one member shall be from  
16 any one county within the state. The members of the commission  
17 shall serve for a period of five years or until their  
18 successors are appointed and qualified. Members to fill  
19 vacancies shall be appointed for ~~[any]~~ an unexpired term. The  
20 governor may remove ~~[any]~~ a member for cause. The commission  
21 shall possess all the powers and perform all the duties  
22 prescribed by Chapter 61, Article 29 NMSA 1978 and as otherwise  
23 provided by law, and it is expressly vested with power and  
24 authority to make and enforce ~~[any]~~ rules and regulations to  
25 carry out the provisions of that article. Prior to ~~[any]~~ a

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1 final action on ~~[any]~~ a proposed ~~[changes]~~ change or  
2 ~~[amendments]~~ amendment to the rules and regulations of the  
3 commission, the commission may publish notice of the proposed  
4 action in its official publication, distribute the publication  
5 to each active licensee and give the time and place for a  
6 public hearing on the proposed changes. The hearing shall be  
7 held at least thirty days prior to ~~[any]~~ a proposed final  
8 action. ~~[Any]~~ Changes or amendments to the rules ~~[and~~  
9 ~~regulations]~~ shall be filed in accordance with the procedures  
10 of the State Rules Act and shall become effective thirty days  
11 after notification to all active licensees of the filing of the  
12 changes or amendments. ~~[The commission may employ any staff it~~  
13 ~~deems necessary to assist in carrying out its duties and in~~  
14 ~~keeping its records.]"~~

15 Section 31. Section 61-29-7 NMSA 1978 (being Laws 1959,  
16 Chapter 226, Section 6, as amended) is amended to read:

17 "61-29-7. REIMBURSEMENT AND EXPENSES. -- Each member of the  
18 commission shall receive per diem and mileage as provided in  
19 the Per Diem and Mileage Act and shall receive no other  
20 compensation, perquisite or allowance. ~~[The commission may~~  
21 ~~select and appoint an administrator, who shall serve as~~  
22 ~~executive secretary to the commission on annual salary, to~~  
23 ~~perform the duties prescribed by this act and such additional~~  
24 ~~duties as the commission may determine. The commission may~~  
25 ~~employ subordinate officers, stenographers, clerks, an attorney~~

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1 ~~and such other assistance as may be needed and fix their~~  
2 ~~compensation to be paid from the real estate commission fund~~  
3 ~~and to purchase such supplies, equipment and records and to~~  
4 ~~incur such other expenses as may be necessary to carry out the~~  
5 ~~provisions of this act.]"~~

6 Section 32. Section 61-30-9 NMSA 1978 (being Laws 1990,  
7 Chapter 75, Section 9, as amended) is amended to read:

8 "61-30-9. REIMBURSEMENT AND EXPENSES. --The board may  
9 appoint such committees of the board [~~and employ such persons~~  
10 ~~to assist the board~~] as may be necessary. [Each] A member of  
11 the board or [~~any~~] a committee shall receive per diem and  
12 mileage as provided in the Per Diem and Mileage Act and shall  
13 receive no other perquisite, compensation or allowance.  
14 Compensation for [~~employees and~~] any necessary supplies and  
15 equipment shall be paid from the appraiser fund."

16 Section 33. Section 61-31-8 NMSA 1978 (being Laws 1989,  
17 Chapter 51, Section 8) is amended to read:

18 "61-31-8. BOARD'S AUTHORITY. --In addition to any  
19 authority provided by law, the board shall have the authority  
20 to:

21 A. adopt and file, in accordance with the State  
22 Rules Act, rules and regulations necessary to carry out the  
23 provisions of the Social Work Practice Act, in accordance with  
24 the provisions of the Uniform Licensing Act, including the  
25 procedures for an appeal of an examination failure;

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1           B. select, prepare and administer, at least  
2 annually, written examinations for licensure [~~which~~] that shall  
3 include a testing of the knowledge of New Mexico cultures;

4           C. adopt a professional code of ethics;

5           D. appoint advisory committees pursuant to Section  
6 [~~19 of the Social Work Practice Act~~] 61-31-19 NMSA 1978;

7           E. conduct hearings on an appeal of a denial of a  
8 license based on the applicant's failure to meet the minimum  
9 qualifications for licensure. The hearing shall be conducted  
10 pursuant to the Uniform Licensing Act;

11           F. require and establish criteria for continuing  
12 education;

13           G. issue subpoenas, statements of charges,  
14 statements of intent to deny licenses and orders and delegate  
15 in writing to a designee the authority to issue subpoenas,  
16 statements of charges and statements of intent to deny licenses  
17 and establish procedures for receiving, investigating and  
18 conducting hearings on complaints;

19           H. approve appropriate supervision for those  
20 persons seeking licensure as [~~an~~] independent social [~~worker~~]  
21 workers;

22           I. issue provisional licenses and licenses based on  
23 credentials to persons meeting the requirements set forth in  
24 the Social Work Practice Act;

25           J. determine qualifications for licensure;

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