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AN ACT

RELATING TO LICENSURE; EXPANDING THE POWERS AND DUTIES OF THE
NEW MEXICO PUBLIC ACCOUNTANCY BOARD; PROVIDING FOR
FINGERPRINTING AND BACKGROUND CHECK OF AN APPLICANT;
INCREASING THE AMOUNT IMPOSED FOR AN ADMINISTRATIVE FINE;
PROVIDING PENALTIES; AMENDING AND ENACTING SECTIONS OF THE
1999 PUBLIC ACCOUNTANCY ACT.

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

Section 1. Section 61-28B-1 NMSA 1978 (being Laws 1999,
Chapter 179, Section 1) is amended to read:

"61-28B-1. SHORT TITLE.--Chapter 61, Article 28B NMSA
1978 may be cited as the "1999 Public Accountancy Act"."

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

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

A. The board may:

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

(2) retain its own counsel to advise and
assist it in addition to advice and assistance provided by
the attorney general;

(3) contract, sue and be sued and have and
use a seal;

1 (4) cooperate with the appropriate
2 authorities in other states in investigation and enforcement
3 concerning violations of the 1999 Public Accountancy Act and
4 comparable acts of other states; and

5 (5) adopt and file in accordance with the
6 Uniform Licensing Act and the State Rules Act rules to carry
7 out the provisions of the 1999 Public Accountancy Act,
8 including rules governing the administration and enforcement
9 of the 1999 Public Accountancy Act and the conduct of
10 certificate and permit holders.

11 B. The board shall:

12 (1) maintain a registry of the names and
13 addresses of certificate and permit holders; and

14 (2) develop, in conjunction with the
15 department of public safety, rules requiring a criminal
16 history background check of an applicant for initial or
17 reciprocal certification in New Mexico as provided for in the
18 1999 Public Accountancy Act."

19 Section 3. Section 61-28B-20 NMSA 1978 (being Laws
20 1999, Chapter 179, Section 20) is amended to read:

21 "61-28B-20. ENFORCEMENT--ADMINISTRATIVE VIOLATIONS AND
22 REMEDIES.--

23 A. The board may take, after providing a person
24 due process pursuant to the Uniform Licensing Act, corrective
25 action identified in Subsection B of this section following a

1 finding that an applicant or licensee:

2 (1) committed fraud or deceit in obtaining a
3 certificate or permit;

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

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

12 (4) lost the authorization to practice in
13 any state or before any federal agency through revocation or
14 suspension of that authorization;

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

20 (6) violated a provision of the 1999 Public
21 Accountancy Act or a rule promulgated by the board pursuant
22 to that act;

23 (7) violated a rule of professional conduct
24 promulgated by the board pursuant to the 1999 Public
25 Accountancy Act;

1 (8) has been convicted of a felony or of a
2 crime an element of which is dishonesty or fraud under the
3 laws of the United States, of New Mexico or of any other
4 state, or of any other jurisdiction, if the acts involved
5 would have constituted a crime under the laws of New Mexico;

6 (9) performed a fraudulent act while holding
7 a certificate or permit issued pursuant to the 1999 Public
8 Accountancy Act or prior law; or

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

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

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

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

22 (3) reprimand, censure or limit the scope of
23 practice of a licensee;

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

1 (5) place the licensee on probation.

2 C. In lieu of or in addition to a remedy
3 specifically provided in Subsection B of this section, the
4 board may require of a licensee:

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

7 (2) satisfactory completion of such
8 continuing professional education programs as the board may
9 specify;

10 (3) correction of the violation identified;
11 and

12 (4) any other suitable remedial action as
13 determined by the board.

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

18 Section 4. Section 61-28B-27 NMSA 1978 (being Laws
19 1999, Chapter 179, Section 27, as amended) is amended to
20 read:

21 "61-28B-27. FEES.--The board may collect from
22 certificate holders, permit holders, applicants and others
23 the following fees:

24 A. for examination, a fee not to exceed four
25 hundred dollars (\$400) per examination section;

1 B. for certificate issuance or renewal, a fee not
2 to exceed one hundred seventy-five dollars (\$175) per year;
3 provided, however, the board may charge a biennial fee of not
4 more than twice the annual fee;

5 C. for firm permits, a fee not to exceed one
6 hundred dollars (\$100) per year; provided, however, the board
7 may charge a biennial fee of not more than twice the annual
8 fee;

9 D. for incomplete or delinquent continuing
10 education reports, certificate or permit renewals, a fee not
11 to exceed one hundred dollars (\$100) each;

12 E. for preparing and providing licensure and
13 examination information to others, a fee not to exceed
14 seventy-five dollars (\$75.00) per report;

15 F. reasonable administrative fees for such
16 services as research, record copies, duplicate or replacement
17 certificates or permits;

18 G. a fee for fingerprinting and background check
19 for an applicant for certification not to exceed one hundred
20 dollars (\$100);

21 H. for certificate reinstatement, a fee not to
22 exceed one hundred seventy-five dollars (\$175), plus past due
23 fees and penalties;

24 I. for waiver to comply with continuing
25 professional education requirements, a fee not to exceed

1 seventy-five dollars (\$75.00) per application; and

2 J. for reentry into active certificate status and
3 to comply with continuing education, a fee not to exceed
4 seventy-five dollars (\$75.00) per application."

5 Section 5. A new section of the 1999 Public Accountancy
6 Act is enacted to read:

7 "FINGERPRINTING--CRIMINAL HISTORY BACKGROUND CHECKS.--

8 A. All applicants for certification as provided
9 for in the 1999 Public Accountancy Act shall:

10 (1) be required to provide fingerprints on
11 two fingerprint cards for submission to the federal bureau of
12 investigation to conduct a national criminal history
13 background check and to the department of public safety to
14 conduct a state criminal history check;

15 (2) pay the cost of obtaining the
16 fingerprints and criminal history background checks; and

17 (3) have the right to inspect or challenge
18 the validity of the record development by the background
19 check if the applicant is denied certification as established
20 by board rule.

21 B. Electronic live scans may be used for
22 conducting criminal history background checks.

23 C. Criminal history records obtained by the board
24 pursuant to the provisions of this section are confidential.

25 The board is authorized to use criminal history records

1 obtained from the federal bureau of investigation and the
2 department of public safety to conduct background checks on
3 applicants for certification as provided for in the 1999
4 Public Accountancy Act.

5 D. Criminal history records obtained pursuant to
6 the provisions of this section shall not be used for any
7 purpose other than conducting background checks. Criminal
8 history records obtained pursuant to the provisions of this
9 section and the information contained in those records shall
10 not be released or disclosed to any other person or agency,
11 except pursuant to a court order or with the written consent
12 of the person who is the subject of the records.

13 E. A person who releases or discloses criminal
14 history records or information contained in those records in
15 violation of the provisions of this section is guilty of a
16 misdemeanor and shall be sentenced pursuant to the provisions
17 of Section 31-19-1 NMSA 1978." _____