

HOUSE BILL 478

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

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AN ACT

RELATING TO LICENSURE; ENACTING THE RECREATIONAL THERAPY PRACTICE ACT IN CHAPTER 61 NMSA 1978; ESTABLISHING A RECREATIONAL THERAPY BOARD; PROVIDING FOR LICENSURE OF RECREATIONAL THERAPISTS; PROVIDING FOR RENEWAL, DENIAL, SUSPENSION, REVOCATION AND REINSTATEMENT OF LICENSES TO PRACTICE RECREATIONAL THERAPY; ESTABLISHING PENALTIES.

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

SECTION 1. A new section of Chapter 61 NMSA 1978 is enacted to read:

"[NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Recreational Therapy Practice Act".

SECTION 2. A new section of Chapter 61 NMSA 1978 is enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Recreational

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1 Therapy Practice Act:

2 A. "board" means the recreational therapy board;

3 B. "department" means the regulation and licensing
4 department;

5 C. "individualized assessment" means a systematic
6 collection of data to identify the strengths and limitations of
7 an individual's physical, cognitive, social, behavioral,
8 emotional and leisure capabilities and the interpretation and
9 analysis of collected data to determine a course of action for
10 recreational therapy services for a patient. An individualized
11 assessment includes:

12 (1) a review of an individual's medical
13 records and other documentation pertinent to the individual's
14 health and abilities;

15 (2) the implementation of standardized and
16 nonstandardized instruments, tests and measurements; and

17 (3) the skilled observation and interview of
18 an individual;

19 D. "recreational therapist" means:

20 (1) an individual who has been licensed by the
21 board to practice recreational therapy in the state; or

22 (2) an individual who:

23 (a) has been certified as a certified
24 therapeutic recreation specialist by the national council for
25 therapeutic recreation certification; and

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1 (b) meets the minimum training,
2 educational, experience and competency standards for licensure
3 as a recreational therapist that the board has promulgated by
4 rule; and

5 E. "recreational therapy" means a treatment service
6 designed to restore, remediate and rehabilitate an individual's
7 level of functioning and independence in life activities and to
8 promote health and wellness as well as reduce or eliminate the
9 activity limitations and restrictions to participation in life
10 situations caused by an illness or disabling condition.

11 "Recreational therapy" services include:

12 (1) conducting an individualized assessment
13 for the purpose of collecting systematic, comprehensive and
14 accurate data necessary to determine the course of action and
15 subsequent individualized recreational therapy treatment plan;

16 (2) planning and developing the individualized
17 recreational therapy treatment plan that identifies the
18 individual's goals, objectives and treatment intervention
19 strategies;

20 (3) implementing the individualized
21 recreational therapy treatment plan that is consistent with the
22 overall treatment program;

23 (4) systematically evaluating and comparing
24 the individual's response to the individualized recreational
25 therapy treatment plan and suggesting modifications as

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1 appropriate;

2 (5) developing a discharge plan in
3 collaboration with the individual, the individual's family and
4 other recreational therapy treatment team members;

5 (6) identifying, designing, fabricating,
6 applying or providing training in the use of adaptive
7 recreational equipment;

8 (7) identifying, applying and evaluating the
9 use of noninvasive and nonpharmacological approaches to reduce
10 or alleviate pain or manage pain to minimize its impact upon
11 participation;

12 (8) identifying, providing and educating
13 individuals to use resources that support a healthy, active and
14 engaged life;

15 (9) minimizing the impact of environmental
16 constraints as a barrier to participation;

17 (10) collaborating with and educating the
18 individual, the individual's family, the individual's caregiver
19 and others to foster an environment that is responsive to the
20 needs of the individual; and

21 (11) consulting with groups, programs,
22 organizations or communities to improve physical, social and
23 programmatic accessibility."

24 SECTION 3. A new section of Chapter 61 NMSA 1978 is
25 enacted to read:

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1 "[NEW MATERIAL] RECREATIONAL THERAPY BOARD--CREATION--
2 MEMBERSHIP.--

3 A. The "recreational therapy board" is created.
4 The board is administratively attached to the department.

5 B. The board consists of five members who are New
6 Mexico residents. Members of the board shall be appointed by
7 the governor to terms of four years. The terms shall be
8 staggered, and the governor shall make appointments of two
9 two-year terms, two three-year terms and one four-year term, if
10 necessary, to produce staggered terms. Three members of the
11 board shall be recreational therapists, each with at least five
12 years of recreational therapy practice and each actively
13 engaged in the practice of recreational therapy during the
14 member's tenure on the board. Two members of the board shall
15 be public members who have not been licensed and have no
16 financial interest, direct or indirect, in the profession of
17 recreational therapy.

18 C. Each member of the board shall hold office until
19 a successor has been appointed and qualified.

20 D. A board member shall not serve more than two
21 full consecutive terms.

22 E. The board shall elect annually a chair and other
23 officers as it deems necessary. The board shall meet as often
24 as necessary for the conduct of business, but no less than
25 twice a year. Meetings shall be held in accordance with the

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1 Open Meetings Act. Three members, at least one of whom must be
2 a public member, shall constitute a quorum.

3 F. A board member may be recommended for removal as
4 a member of the board for failing to attend, after proper
5 notice, three consecutive board meetings.

6 G. Members of the board shall be reimbursed as
7 provided for nonsalaried public officers pursuant to the Per
8 Diem and Mileage Act and shall receive no other compensation,
9 perquisite or allowance."

10 SECTION 4. A new section of Chapter 61 NMSA 1978 is
11 enacted to read:

12 "[NEW MATERIAL] BOARD DUTIES--POWERS.--

13 A. The board shall:

14 (1) examine all applicants for licensure to
15 practice recreational therapy and issue licenses or permits to
16 those who are duly qualified;

17 (2) regulate the practice of recreational
18 therapy by interpreting and enforcing the provisions of the
19 Recreational Therapy Practice Act, including taking
20 disciplinary action as it deems necessary to uphold the
21 provisions of that act;

22 (3) provide for the timely orientation and
23 training of new professional and public appointees to the
24 board, including training in licensing and disciplinary
25 procedures and orientation to all statutes, rules, policies and

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1 procedures of the board;

2 (4) establish by rule educational
3 requirements, including an academic major or specialization
4 that conforms to the requirements of a national recreational
5 therapy certification;

6 (5) publish annually a list of academic
7 programs that meet the educational standards for board
8 licensure in recreational therapy; and

9 (6) publish at least annually final
10 disciplinary action taken against any recreational therapist.

11 B. The board may:

12 (1) adopt and file, in accordance with the
13 State Rules Act, rules necessary to carry out the provisions of
14 the Recreational Therapy Practice Act, in accordance with the
15 provisions of the Uniform Licensing Act;

16 (2) establish minimum training, educational,
17 experience and competency standards for licensure as a
18 recreational therapist;

19 (3) establish requirements for assessing
20 continuing competency of recreational therapists;

21 (4) collect fees as necessary to carry out the
22 provisions of the Recreational Therapy Practice Act and rules
23 that the board has promulgated pursuant to that act;

24 (5) enter into contracts;

25 (6) prescribe the forms of license

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1 certificates, application forms and such other documents as it
2 deems necessary to carry out the provisions of the Recreational
3 Therapy Practice Act;

4 (7) pursuant to the Uniform Licensing Act,
5 conduct hearings on charges against applicants, licensees or
6 registrants and take actions described in Section 61-1-3 NMSA
7 1978;

8 (8) bring an action for injunctive relief in
9 district court seeking to enjoin a person from violating the
10 provisions of the Recreational Therapy Practice Act;

11 (9) issue cease and desist orders to persons
12 violating the provisions of the Recreational Therapy Practice
13 Act or any rule adopted by the board pursuant to that act;

14 (10) adopt an annual budget;

15 (11) adopt a code of professional conduct; and

16 (12) provide for the investigation of
17 complaints against licensees."

18 SECTION 5. A new section of Chapter 61 NMSA 1978 is
19 enacted to read:

20 "[NEW MATERIAL] RECREATIONAL THERAPIST LICENSURE--
21 REQUIREMENTS--LICENSURE BY CREDENTIALS.--

22 A. The board shall license any individual as a
23 recreational therapist who meets the following educational,
24 credentialing and experience requirements:

25 (1) passage of an appropriate examination as a

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1 therapeutic recreation specialist or a recreational therapist
2 by the board or current certification as a certified
3 therapeutic recreation specialist by the national council for
4 therapeutic recreation certification; and

5 (2) having a minimum level of education or
6 experience, as defined by board rules, including practice
7 competency standards or guidelines promulgated by recreational
8 therapy professional associations and credentialing and
9 accrediting organizations.

10 B. After successful completion of an examination,
11 the board may license an applicant who possesses a valid
12 license in good standing to practice recreational therapy
13 issued by the appropriate examining board under the laws of any
14 other state or territory of the United States, the District of
15 Columbia or any foreign nation and has met educational and
16 examination requirements equal to or exceeding those
17 established pursuant to the Recreational Therapy Practice Act.

18 C. The name of a recreational therapist may be
19 immediately followed by the initials "R.T.", as a right and
20 privilege of licensure."

21 SECTION 6. A new section of Chapter 61 NMSA 1978 is
22 enacted to read:

23 "[NEW MATERIAL] TEMPORARY LICENSURE.--

24 A. Prior to examination in accordance with board
25 rules, an applicant for licensure may obtain a temporary

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1 license to engage in the practice of recreational therapy if
2 the applicant meets all the requirements for licensure except
3 completion of the examination.

4 B. A temporary license is valid until the results
5 of the next scheduled examination are available and a license
6 is issued or denied.

7 C. No more than one temporary license may be issued
8 to an individual, and no temporary license shall be issued to
9 an applicant who has previously failed the examination."

10 SECTION 7. A new section of Chapter 61 NMSA 1978 is
11 enacted to read:

12 "[NEW MATERIAL] LICENSE RENEWAL--INACTIVE STATUS.--

13 A. The board shall renew the license of a
14 recreational therapist who has:

15 (1) submitted a renewal application and
16 application and renewal fees in accordance with board rules;

17 (2) fulfilled board requirements for
18 continuing education; and

19 (3) met any other requirements that the board
20 has established and promulgated by rule for license renewal
21 eligibility.

22 B. The board shall provide a sixty-day grace period
23 to each licensee after the end of the renewal period that the
24 board has prescribed by rule, during which time a license may
25 be renewed upon payment of the renewal fee and a late fee as

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1 prescribed by the board.

2 C. A recreational therapy license not renewed at
3 the end of the sixty-day grace period shall be placed on
4 inactive status for a period not to exceed two years. At the
5 end of two years, if the license has not been reactivated, it
6 shall automatically expire.

7 D. If within a period of two years from the date
8 the license was placed on inactive status the recreational
9 therapist wishes to resume practice, the board shall be
10 notified in writing, and, upon proof of completion of any
11 continuing education or refresher courses prescribed by rule of
12 the board and payment of an amount set by the board in lieu of
13 all renewal and late fees, the license shall be restored in
14 full."

15 SECTION 8. A new section of Chapter 61 NMSA 1978 is
16 enacted to read:

17 "[NEW MATERIAL] DENIAL, SUSPENSION, REVOCATION AND
18 REINSTATEMENT OF LICENSES.--

19 A. Pursuant to the Uniform Licensing Act, the board
20 may take disciplinary action against an individual licensed
21 pursuant to the Recreational Therapy Practice Act.

22 B. The board may take an action set forth in
23 Section 61-1-3 NMSA 1978 upon a finding by the board that a
24 licensee or applicant for licensure:

25 (1) is guilty of fraud, deceit or

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1 misrepresentation;

2 (2) attempted to use as the licensee's or
3 applicant's own the license of another;

4 (3) allowed the use of the licensee's license
5 by another;

6 (4) has been adjudicated as mentally
7 incompetent by regularly constituted authorities;

8 (5) has been convicted of any offense
9 punishable by incarceration in a state penitentiary or federal
10 prison. A copy of the record of conviction, certified by the
11 clerk of the court entering the conviction, is conclusive
12 evidence of the conviction;

13 (6) is guilty of unprofessional or unethical
14 conduct or a violation of board rules;

15 (7) is habitually and excessively using
16 controlled substances or alcohol;

17 (8) is guilty of false, deceptive or
18 misleading advertising;

19 (9) is guilty of aiding, assisting or
20 advertising any unlicensed person in the practice of
21 recreational therapy;

22 (10) is grossly negligent or incompetent in
23 the practice of recreational therapy;

24 (11) has had a license to practice
25 recreational therapy revoked, suspended or denied in any

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1 jurisdiction, territory or possession of the United States or
2 another country for acts of the licensee or registrant similar
3 to acts described in this section. A certified copy of the
4 record of the revocation, suspension or denial shall be
5 conclusive evidence of the conviction; or

6 (12) is guilty of failing to comply with a
7 provision of the Recreational Therapy Practice Act or rules of
8 the board adopted pursuant to that act and filed in accordance
9 with the State Rules Act.

10 C. Disciplinary proceedings may be instituted by
11 sworn complaint of any person, including a member of the board,
12 and shall conform with the provisions of the Uniform Licensing
13 Act.

14 D. The board may establish guidelines for the
15 disposition of disciplinary cases. Those guidelines may
16 include minimum and maximum fines, periods of probation,
17 conditions of probation or reissuance of a license. Any fine
18 assessed pursuant to the Recreational Therapy Practice Act
19 shall be deposited into the current school fund.

20 E. A licensee who has been found culpable and
21 sanctioned by the board shall be responsible for the payments
22 of all costs of the disciplinary proceedings.

23 F. One year from the date of revocation of a
24 license under the Recreational Therapy Practice Act,
25 application for reinstatement may be made to the board for

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1 restoration of the license. The board shall provide by rule
2 for the criteria governing application and examination for
3 restoration of a revoked license."

4 SECTION 9. A new section of Chapter 61 NMSA 1978 is
5 enacted to read:

6 "[NEW MATERIAL] OFFENSES--CRIMINAL PENALTIES.--A person
7 who does any of the following is guilty of a misdemeanor and
8 shall be sentenced pursuant to Section 31-19-1 NMSA 1978:

9 A. violates a provision of the Recreational Therapy
10 Practice Act or rules adopted pursuant to that act;

11 B. renders or attempts to render recreational
12 therapy services without the required current valid license
13 issued by the board; or

14 C. advertises or uses a designation, diploma or
15 certificate implying that the person is a recreational
16 therapist, or uses of the initials "R.T." after the person's
17 name, unless the person holds a current valid license issued by
18 the board."