

HOUSE BILL 539

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Doreen Y. Gallegos and Gerald Ortiz y Pino

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO LICENSING; AMENDING, REPEALING AND ENACTING SECTIONS OF THE SOCIAL WORK PRACTICE ACT TO CLARIFY LICENSURE REQUIREMENTS AND ALLOW FOR TELESUPERVISION AND TELEHEALTH; CLARIFYING CONFLICT OF INTEREST FOR BOARD MEMBERS; PROVIDING FOR ELECTRONIC EXAMINATIONS.

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

SECTION 1. Section 61-31-3 NMSA 1978 (being Laws 1989, Chapter 51, Section 3, as amended) is amended to read:

"61-31-3. DEFINITIONS.--As used in the Social Work

.212720.2

underscored material = new

[bracketed material] = delete

Amendments: new = →bold, blue, highlight↵

delete = →bold, red, highlight, strikethrough↵

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↵
delete = →bold, red, highlight, strikethrough↵

Practice Act:

A. "advisory committee" means an evaluation advisory committee;

B. "appropriate supervision" means supervision by ~~[an]~~ a licensed clinical social worker or licensed independent social worker ~~[or a master social worker]~~ with two years of supervised social work practice experience or other supervision ~~[which]~~ that is deemed by the board to be equivalent to supervision by a ~~[master]~~ licensed clinical social worker or licensed independent social worker;

~~[G. "baccalaureate social worker" means a person who uses the title of social worker and has a bachelor's degree in social work from a program accredited by the council on social work education;~~

~~D.]~~ C. "board" means the board of social work examiners;

D. "client" means an individual, couple, family, group, organization or community that seeks or receives social work services from an individual social worker or an organization;

E. "consultation" means a problem-solving process in which expertise is offered to an individual, group organization or community;

F. "continuing education" means approved education and training that are oriented to maintain, improve or enhance

.212720.2

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↔
delete = →bold, red, highlight, strikethrough↔

social work practice;

[E.] G. "department" means the regulation and licensing department;

[F.] H. "executive agency" means any agency within the executive branch of government;

[G. ~~"independent social worker" means a person who uses the title of social worker and has a master's degree in social work from a graduate school of social work accredited by the council on social work education and who has had two years of postgraduate social work practice under appropriate supervision;~~

~~H. "master social worker" means a person who uses the title of social worker and has a master's degree in social work from a graduate school of social work accredited by the council on social work education; and]~~

I. "licensed bachelor of social work" means a person who engages in the practice of social work under appropriate supervision and meets the qualification of a licensed bachelor of social work pursuant to the Social Work Practice Act;

J. "licensed clinical social worker" means a person who is licensed in the state to engage in clinical social work practice and meets the qualifications for a licensed clinical social worker pursuant to the Social Work Practice Act;

K. "licensed independent social worker" means a

.212720.2

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

person who is licensed in the state to engage in social work practice other than clinical social work and meets the qualifications for a licensed independent social worker pursuant to the Social Work Practice Act;

L. "licensed master of social work" means a person who engages in the practice of social work under appropriate supervision and meets the qualification of a licensed master of social work pursuant to the Social Work Practice Act;

[F.] M. "professional code of ethics" means HHC→a
~~code of ethics and rules adopted by the board, designed to protect the public and to regulate the professional conduct of social workers~~ a code of ethics or professional standards promulgated by a national organization of social work professionals that provides guidance, research, advocacy and other services to social workers←HHC;

N. "recognized association" means a nonprofit national association of educational and professional institutions, social welfare agencies and private citizens recognized as an accrediting agency for social work education in the United States by a self-regulating organization of degree-granting colleges and universities;

O. "supervision" means an interactional professional relationship between a social worker and a supervisor who:

(1) provides evaluation of and direction to a

.212720.2

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

licensed bachelor of social work or a licensed master of social work; and

(2) promotes continued development of a licensed bachelor of social work's or a licensed master of social work's knowledge, skill and ability to practice social work; and

P. "supervisor" means an individual who provides appropriate supervision."

SECTION 2. Section 61-31-4 NMSA 1978 (being Laws 1989, Chapter 51, Section 4, as amended) is amended to read:

"61-31-4. LICENSE REQUIRED.--

A. Effective January 1, 1990, unless licensed to practice social work under the Social Work Practice Act, no person shall:

(1) practice as an independent social worker, clinical social worker, master of social work or bachelor of social work as defined in the Social Work Practice Act; or

(2) use the title or [~~represent himself as~~] make any representation as being a licensed social worker of any type or level or use any other title, abbreviation, letters, figures, signs or devices that indicate the person is licensed as a social worker.

B. Notwithstanding the provisions of Subsection A of this section, [~~any~~] an individual who is employed in an executive agency on or after [~~the effective date of the Social~~

.212720.2

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

~~Work Practice Act~~] July 1, 1989 under the title of social worker or other title [~~which~~] that is deemed to be social work practice by the board and who has a bachelor's degree or higher in a field other than social work shall not be required to be licensed until July 1, 1992; provided [~~any~~] an employee of an executive agency who qualifies for licensure under the provisions of the Social Work Practice Act shall apply for licensure as provided in that act."

SECTION 3. Section 61-31-5 NMSA 1978 (being Laws 1989, Chapter 51, Section 5) is amended to read:

"61-31-5. [~~EXEMPTIONS~~] USE OF TITLE--OTHER PROFESSIONS.--

A. Except as otherwise provided in the Social Work Practice Act, it is unlawful for an individual not licensed as a social worker to:

(1) engage in the practice of social work;
(2) hold the individual out as a social worker or claim to be a social worker or use the title of social worker; or

(3) use any abbreviation or title that implies or would lead the public to believe that the individual is a social worker or is licensed to practice social work.

B. Nothing in the Social Work Practice Act shall be construed to prevent qualified members of other recognized professions that are licensed, certified or regulated under New Mexico law or regulation from rendering services within the

.212720.2

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

scope of their license, certification or regulation; provided that they do not represent themselves as licensed social workers."

SECTION 4. Section 61-31-7 NMSA 1978 (being Laws 1989, Chapter 51, Section 7, as amended) is amended to read:

"61-31-7. BOARD CREATED.--

- A. There is created the "board of social work examiners".
- B. The board shall be administratively attached to the department.
- C. The board shall consist of seven members who are representative of the geographic and ethnic groups within New Mexico [~~who are United States citizens~~] and who have been New Mexico residents [~~for at least five years~~] prior to their appointment. Of the seven members:

(1) four members shall have been engaged in social work practice for at least five years; at least two of the four shall hold a master's degree in social work; and at least two shall hold a bachelor's degree in social work from schools of social work that are accredited by the council on social work education. At least one of these members shall be engaged primarily in clinical social work practice; one member shall be engaged primarily in education; one member shall be engaged primarily in administration or research in social work practice; and at least one member shall be engaged primarily in

.212720.2

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

community organization, planning and development. These members [~~shall not hold office in any professional organization of social workers during their tenure on the board~~] may join professional organizations and associations organized exclusively to promote the improvement of the practice of social work for the protection of the health and welfare of the public or whose activities assist and facilitate the work of the board; and

(2) three members shall represent the public. The public members shall not have been licensed or have practiced as social workers. Public members shall not have any significant financial interest, whether direct or indirect, in social work practice.

D. Members of the board shall be appointed by the governor for staggered terms of three years. Each member shall hold office until a successor is appointed. Vacancies shall be filled for the unexpired term in the same manner as original appointments.

E. Except for the representatives of the public on the board, the governor shall appoint board members from a list of nominees submitted by social work organizations and individual social work professionals or from a pool of resumes submitted to the governor by individuals applying for membership.

F. Members of the board shall be reimbursed as

.212720.2

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↔
delete = →bold, red, highlight, strikethrough↔

provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

G. The board shall elect a chair and other officers as deemed necessary to administer its duties.

H. A simple majority of the board members currently serving shall constitute a quorum of the board.

I. The board shall meet at least once a year and at such other times as it deems necessary. Other meetings may be called by the chair upon the written request of a quorum of the board. The board may permit electronic participation in board meetings in accordance with the Open Meetings Act and board rules.

J. The governor may remove any member from the board for:

(1) the neglect of any duty required by law;

~~(2)~~ (2) incompetence;

~~(3)~~ (3) improper or unprofessional conduct as defined by board rule;

(4) violation of the current professional code of ethics or professional standards promulgated by a national organization of social work professionals that provides guidance, research, advocacy and other services to social workers; or

~~(5)~~ (5) any reason that would justify the suspension or revocation of that member's license to practice

.212720.2

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

social work.

K. A board member shall not serve more than two consecutive terms, and any member failing to attend, after proper notice, three consecutive meetings shall automatically be removed as a board member, unless excused for reasons set forth in board [~~regulations~~] rules.

L. In the event of a vacancy for any reason, the board secretary shall immediately notify the governor and the board of the vacancy and the reason for its occurrence to expedite the appointment of a new board member within a six-month period."

SECTION 5. Section 61-31-8 NMSA 1978 (being Laws 1989, Chapter 51, Section 8, as amended) is amended to read:

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

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

B. select, prepare and administer, at least annually, [~~written~~] examinations for licensure;

HHHC→~~C. adopt a professional code of ethics;~~←HHHC

HHHC→C. Adopt a current professional code of ethics

.212720.2

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

or professional standards promulgated by a national organization of social work professionals that provides guidance, research, advocacy and other services to social workers;←HHHC

D.] HHC→G. D.←HHHC appoint advisory committees pursuant to Section 61-31-19 NMSA 1978;

[E.] HHC→D. E.←HHHC conduct hearings on an appeal of a denial of a license based on the applicant's failure to meet the minimum qualifications for licensure. The hearing shall be conducted pursuant to the Uniform Licensing Act;

[F.] HHC→E. F.←HHHC require and establish criteria for continuing education;

[G.] HHC→F. G.←HHHC issue subpoenas, statements of charges, statements of intent to deny licenses and orders and delegate in writing to a designee the authority to issue subpoenas, statements of charges and statements of intent to deny licenses and establish procedures for receiving, investigating and conducting hearings on complaints;

[H. approve appropriate supervision for those persons seeking licensure as independent social workers;]

HHC→G. H.←HHHC request that an individual who is violating the Social Work Practice Act:

(1) voluntarily stop violating the Social Work Practice Act; and

(2) meet with the board. If the board's

.212720.2

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

requests to an individual pursuant to this subsection are unsuccessful or in a situation that the board deems to be an emergency, the board may apply for an injunction in district court to enjoin any person from committing any act prohibited by the Social Work Practice Act;

HHHC→H. I.←HHHC develop criteria to approve appropriate supervision for a person seeking licensure as a licensed independent social worker or a licensed clinical social worker based upon the prospective supervisor's:

- (1) education;
- (2) experience; and
- (3) level of training;

HHHC→I. J.←HHHC issue provisional licenses, temporary licenses and licenses based on credentials to persons meeting the requirements set forth in the Social Work Practice Act;

HHHC→J. K.←HHHC determine qualifications for licensure, including the requirement to demonstrate an awareness and knowledge of New Mexico cultures;

HHHC→K. L.←HHHC set fees for licenses as authorized by the Social Work Practice Act and authorize all disbursements necessary to carry out the provisions of the Social Work Practice Act; [~~and~~]

HHHC→L. M.←HHHC keep a record and provide notice of all proceedings in accordance with the Open Meetings Act and

.212720.2

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

shall make an annual report to the governor; and

HHHC→M. N.←HHHC determine the appropriate application of technology to social work practice, including video teleconferencing, for appropriate supervision and client contact."

SECTION 6. Section 61-31-10 NMSA 1978 (being Laws 1989, Chapter 51, Section 10) is amended to read:

"61-31-10. [WRITTEN] EXAMINATION.--The date and location of the [written] social work licensure examination shall be established by the board. Applicants who have been found to meet the education and experience requirements for licensure shall be scheduled for the next examination following the filing of the application. The board shall establish by rule the examination application deadline and other rules relating to the retaking of the licensure examination."

SECTION 7. Section 61-31-11 NMSA 1978 (being Laws 1989, Chapter 51, Section 11, as amended) is amended to read:

"61-31-11. PROVISIONAL LICENSURE.--Prior to examination, an applicant for licensure who holds a bachelor's degree or master's degree in social work may obtain a provisional license to engage in social work practice as long as the applicant meets all the requirements, except examination, [~~as prescribed in Section 61-31-10 NMSA 1978~~] pursuant to the Social Work Practice Act for the level of license sought. The provisional license is valid for a period not to exceed one year."

.212720.2

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↔
delete = →bold, red, highlight, strikethrough↔

SECTION 8. Section 61-31-14 NMSA 1978 (being Laws 1989, Chapter 51, Section 14, as amended) is amended to read:

"61-31-14. LICENSE RENEWAL.--

A. Each licensee shall renew the licensee's license biennially by submitting a renewal application on a form provided by the board. At the time of license renewal, the board shall require a licensee to produce evidence of continuing education, as prescribed by the board. The board may establish a method to provide for staggered biennial terms of licensure. The board may authorize license renewal for one year to establish the renewal cycle.

B. A thirty-day grace period shall be allowed each licensee after each annual licensing period, during which time licenses may be renewed upon payment of the renewal fee and providing evidence of continuing education as prescribed by the board.

C. Any licensee who allows the licensee's license to lapse for longer than three months shall have the license automatically revoked and may be required to take [~~a written~~] an examination.

D. A late penalty fee shall be assessed after the thirty-day grace period has expired for anyone attempting to renew a license to practice social work."

SECTION 9. Section 61-31-15 NMSA 1978 (being Laws 1989, Chapter 51, Section 15) is amended to read:

.212720.2

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight
delete = →bold, red, highlight, strikethrough

"61-31-15. LICENSE FEES.--Applicants for licensure shall pay fees set by the board, not to exceed:

A. for ~~written~~ examination for any level of licensure other than initial licensure, two hundred dollars (\$200);

B. for initial licensure following ~~a written~~ an examination as a ~~baccalaureate~~ licensed bachelor of social ~~worker~~ work, two hundred dollars (\$200);

C. for initial licensure following ~~a written~~ an examination as a licensed master of social ~~worker~~ work, three hundred dollars (\$300);

D. for initial licensure following ~~a written~~ an examination as ~~an~~ a licensed independent social worker, three hundred dollars (\$300);

E. for licensure by credentials at any level, three hundred dollars (\$300);

F. for licensure without ~~written~~ examination, including a provisional license, as a ~~baccalaureate~~ licensed bachelor of social ~~worker~~ work, one hundred fifty dollars (\$150);

G. for licensure without ~~written~~ examination, including a provisional license, as a licensed master of social ~~worker~~ work, two hundred fifty dollars (\$250);

H. for licensure without ~~written~~ examination, including a provisional license, as ~~an~~ a licensed independent

.212720.2

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↔
delete = →bold, red, highlight, strikethrough↔

social worker, three hundred dollars (\$300);

I. for renewal of a license as a [~~baccalaureate~~]
licensed bachelor of social [worker] work, one hundred dollars
(\$100);

J. for renewal of a license as a licensed master of
social [worker] work, two hundred dollars (\$200);

K. for renewal of a license as [~~an~~] a licensed
independent social worker, three hundred dollars (\$300);

L. for a late fee for failure to renew within the
allotted grace period, one hundred dollars (\$100); and

M. for a duplicate license, twenty-five dollars
(\$25.00)."

SECTION 10. Section 61-31-25 NMSA 1978 (being Laws 1989,
Chapter 51, Section 27, as amended) is amended to read:

"61-31-25. TERMINATION OF AGENCY LIFE--DELAYED
REPEAL.--The board of social work examiners is terminated on
July 1, [~~2021~~] 2031 pursuant to the Sunset Act. The board
shall continue to operate according to the provisions of the
Social Work Practice Act until July 1, [~~2022~~] 2032. Effective
July 1, [~~2022~~] 2032, the Social Work Practice Act is repealed."

SECTION 11. A new section of the Social Work Practice Act
is enacted to read:

"[NEW MATERIAL] LICENSED INDEPENDENT SOCIAL WORKER--
LICENSURE--QUALIFICATIONS.--After receipt of an application,
requisite fees and documentation in accordance with board

.212720.2

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

rules, the board shall issue in a timely manner a license to practice as a licensed independent social worker to an individual who:

- A. is at least eighteen years of age;
- B. possesses at least a master's degree in social work from a graduate program of social work accredited by a recognized association;
- C. completed post-graduate social work hours and experience as an employee or independent worker under appropriate supervision;
- D. is trained in New Mexico cultures;
- E. passed a jurisprudence examination; and
- F. passed an examination approved by the board, including an advanced generalist examination administered by a nonprofit association composed of and owned by social work regulatory boards and colleges in all states."

SECTION 12. A new section of the Social Work Practice Act is enacted to read:

"[NEW MATERIAL] LICENSED CLINICAL SOCIAL WORKER--
LICENSURE--QUALIFICATIONS.--After receipt of an application, requisite fees and documentation in accordance with board rules, the board shall issue in a timely manner a license to practice as a licensed clinical social worker to an individual who:

- A. is at least eighteen years of age;

.212720.2

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight↔
delete = →bold, red, highlight, strikethrough↔

B. possesses at least a master's degree in social work from a graduate program of social work accredited by a recognized association;

C. completed post-graduate social work hours and experience as an employee or independent worker under appropriate supervision;

D. is trained in New Mexico cultures;

E. passed a jurisprudence examination; and

F. passed an examination approved by the board, including a clinical examination administered by a nonprofit association composed of and owned by social work regulatory boards and colleges in all states."

SECTION 13. A new section of the Social Work Practice Act is enacted to read:

"[NEW MATERIAL] LICENSED MASTER OF SOCIAL WORK--
LICENSURE--QUALIFICATIONS.--After receipt of an application, requisite fees and documentation in accordance with board rules, the board shall issue in a timely manner a license to practice as a licensed master of social work to an individual who:

A. is at least eighteen years of age;

B. possesses at least a master's degree in social work from a graduate program of social work accredited by a recognized association;

C. is trained in New Mexico cultures;

.212720.2

underscored material = new

[bracketed material] = delete

Amendments: new = →bold, blue, highlight↔

delete = →bold, red, highlight, strikethrough↔

D. passed a jurisprudence examination; and

E. passed an examination approved by the board, including a master's examination administered by a nonprofit association composed of and owned by social work regulatory boards and colleges in all states."

SECTION 14. A new section of the Social Work Practice Act is enacted to read:

"[NEW MATERIAL] LICENSED BACHELOR OF SOCIAL WORK--
LICENSURE--QUALIFICATIONS.--After receipt of an application, requisite fees and documentation in accordance with board rules, the board shall issue in a timely manner a license to practice as a licensed bachelor of social work to an individual who:

A. is at least eighteen years of age;

B. possesses at least a bachelor's degree in social work from a graduate program of social work accredited by a recognized association;

C. is trained in New Mexico cultures;

D. passed a jurisprudence examination; and

E. passed an examination approved by the board, including a bachelor's examination administered by a nonprofit association composed of and owned by social work regulatory boards and colleges in all states."

SECTION 15. A new section of the Social Work Practice Act is enacted to read:

.212720.2

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

"[NEW MATERIAL] APPROPRIATE SUPERVISION--GUIDELINES.--An individual providing appropriate supervision as defined in Section 61-31-3 NMSA 1978 shall conform to supervision guidelines that the board establishes by rule."

SECTION 16. REPEAL.--Sections 61-31-2, 61-31-9, 61-31-12, 61-31-13.1 and 61-31-23 NMSA 1978 (being Laws 1989, Chapter 51, Sections 2, 9 and 12, Laws 2006, Chapter 4, Section 8 and Laws 1989, Chapter 51, Section 23, as amended) are repealed.

- 20 -

.212720.2