

1 HOUSE BILL 539

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

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10 AN ACT

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

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

20 "61-31-3. DEFINITIONS.--As used in the Social Work
21 Practice Act:

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

24 B. "appropriate supervision" means supervision by
25 [~~an~~] a licensed clinical social worker or licensed independent

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1 social worker [~~or a master social worker~~] with two years of
2 supervised social work practice experience or other supervision
3 [~~which~~] that is deemed by the board to be equivalent to
4 supervision by a [~~master~~] licensed clinical social worker or
5 licensed independent social worker;

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

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

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

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

19 F. "continuing education" means approved education
20 and training that are oriented to maintain, improve or enhance
21 social work practice;

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

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

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

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

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

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

20 K. "licensed independent social worker" means a
21 person who is licensed in the state to engage in social work
22 practice other than clinical social work and meets the
23 qualifications for a licensed independent social worker
24 pursuant to the Social Work Practice Act;

25 L. "licensed master of social work" means a person

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1 who engages in the practice of social work under appropriate
2 supervision and meets the qualification of a licensed master of
3 social work pursuant to the Social Work Practice Act;

4 [~~F.~~] M. "professional code of ethics" means a code
5 of ethics and rules adopted by the board, designed to protect
6 the public and to regulate the professional conduct of social
7 workers;

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

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

17 (1) provides evaluation of and direction to a
18 licensed bachelor of social work or a licensed master of social
19 work; and

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

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

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

3 "61-31-4. LICENSE REQUIRED.--

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

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

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

15 B. Notwithstanding the provisions of Subsection A
16 of this section, [~~any~~] an individual who is employed in an
17 executive agency on or after [~~the effective date of the Social~~
18 ~~Work Practice Act~~] July 1, 1989 under the title of social
19 worker or other title [~~which~~] that is deemed to be social work
20 practice by the board and who has a bachelor's degree or higher
21 in a field other than social work shall not be required to be
22 licensed until July 1, 1992; provided [~~any~~] an employee of an
23 executive agency who qualifies for licensure under the
24 provisions of the Social Work Practice Act shall apply for
25 licensure as provided in that act."

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

3 "61-31-5. ~~[EXEMPTIONS]~~ USE OF TITLE--OTHER PROFESSIONS.--

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

7 (1) engage in the practice of social work;

8 (2) hold the individual out as a social worker
9 or claim to be a social worker or use the title of social
10 worker; or

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

14 B. Nothing in the Social Work Practice Act shall be
15 construed to prevent qualified members of other recognized
16 professions that are licensed, certified or regulated under New
17 Mexico law or regulation from rendering services within the
18 scope of their license, certification or regulation; provided
19 that they do not represent themselves as licensed social
20 workers."

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

23 "61-31-7. BOARD CREATED.--

24 A. There is created the "board of social work
25 examiners".

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1 B. The board shall be administratively attached to
2 the department.

3 C. The board shall consist of seven members who are
4 representative of the geographic and ethnic groups within New
5 Mexico [~~who are United States citizens~~] and who have been New
6 Mexico residents [~~for at least five years~~] prior to their
7 appointment. Of the seven members:

8 (1) four members shall have been engaged in
9 social work practice for at least five years; at least two of
10 the four shall hold a master's degree in social work; and at
11 least two shall hold a bachelor's degree in social work from
12 schools of social work that are accredited by the council on
13 social work education. At least one of these members shall be
14 engaged primarily in clinical social work practice; one member
15 shall be engaged primarily in education; one member shall be
16 engaged primarily in administration or research in social work
17 practice; and at least one member shall be engaged primarily in
18 community organization, planning and development. These
19 members [~~shall not hold office in any professional organization
20 of social workers during their tenure on the board~~] may join
21 professional organizations and associations organized
22 exclusively to promote the improvement of the practice of
23 social work for the protection of the health and welfare of the
24 public or whose activities assist and facilitate the work of
25 the board; and

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

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

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

17 F. Members of the board shall be reimbursed as
18 provided in the Per Diem and Mileage Act and shall receive no
19 other compensation, perquisite or allowance.

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

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

24 I. The board shall meet at least once a year and at
25 such other times as it deems necessary. Other meetings may be

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1 called by the chair upon the written request of a quorum of the
2 board. The board may permit electronic participation in board
3 meetings in accordance with the Open Meetings Act and board
4 rules.

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

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

8 ~~for~~ (2) incompetence;

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

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

16 ~~for~~ (5) any reason that would justify the
17 suspension or revocation of that member's license to practice
18 social work.

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

24 L. In the event of a vacancy for any reason, the
25 board secretary shall immediately notify the governor and the

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1 board of the vacancy and the reason for its occurrence to
2 expedite the appointment of a new board member within a six-
3 month period."

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

6 "61-31-8. BOARD'S AUTHORITY.--In addition to any
7 authority provided by law, the board shall have the authority
8 to:

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

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

16 [~~G. adopt a professional code of ethics;~~

17 ~~D.~~] C. appoint advisory committees pursuant to
18 Section 61-31-19 NMSA 1978;

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

23 [~~F.~~] E. require and establish criteria for
24 continuing education;

25 [~~G.~~] F. issue subpoenas, statements of charges,

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1 statements of intent to deny licenses and orders and delegate
2 in writing to a designee the authority to issue subpoenas,
3 statements of charges and statements of intent to deny licenses
4 and establish procedures for receiving, investigating and
5 conducting hearings on complaints;

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

8 G. request that an individual who is violating the
9 Social Work Practice Act:

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

12 (2) meet with the board. If the board's
13 requests to an individual pursuant to this subsection are
14 unsuccessful or in a situation that the board deems to be an
15 emergency, the board may apply for an injunction in district
16 court to enjoin any person from committing any act prohibited
17 by the Social Work Practice Act;

18 H. develop criteria to approve appropriate
19 supervision for a person seeking licensure as a licensed
20 independent social worker or a licensed clinical social worker
21 based upon the prospective supervisor's:

22 (1) education;

23 (2) experience; and

24 (3) level of training;

25 I. issue provisional licenses, temporary licenses

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1 and licenses based on credentials to persons meeting the
2 requirements set forth in the Social Work Practice Act;

3 J. determine qualifications for licensure,
4 including the requirement to demonstrate an awareness and
5 knowledge of New Mexico cultures;

6 K. set fees for licenses as authorized by the
7 Social Work Practice Act and authorize all disbursements
8 necessary to carry out the provisions of the Social Work
9 Practice Act; ~~and~~

10 L. keep a record and provide notice of all
11 proceedings in accordance with the Open Meetings Act and shall
12 make an annual report to the governor; and

13 M. determine the appropriate application of
14 technology to social work practice, including video
15 teleconferencing, for appropriate supervision and client
16 contact."

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

19 "61-31-10. ~~[WRITTEN]~~ EXAMINATION.--The date and location
20 of the ~~[written]~~ social work licensure examination shall be
21 established by the board. Applicants who have been found to
22 meet the education and experience requirements for licensure
23 shall be scheduled for the next examination following the
24 filing of the application. The board shall establish by rule
25 the examination application deadline and other rules relating

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1 to the retaking of the licensure examination."

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

4 "61-31-11. PROVISIONAL LICENSURE.--Prior to examination,
5 an applicant for licensure who holds a bachelor's degree or
6 master's degree in social work may obtain a provisional license
7 to engage in social work practice as long as the applicant
8 meets all the requirements, except examination, [~~as prescribed~~
9 ~~in Section 61-31-10 NMSA 1978~~] pursuant to the Social Work
10 Practice Act for the level of license sought. The provisional
11 license is valid for a period not to exceed one year."

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

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

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

23 B. A thirty-day grace period shall be allowed each
24 licensee after each annual licensing period, during which time
25 licenses may be renewed upon payment of the renewal fee and

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1 providing evidence of continuing education as prescribed by the
2 board.

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

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

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

12 "61-31-15. LICENSE FEES.--Applicants for licensure shall
13 pay fees set by the board, not to exceed:

14 A. for [~~written~~] examination for any level of
15 licensure other than initial licensure, two hundred dollars
16 (\$200);

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

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

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

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

3 F. for licensure without ~~written~~ examination,
4 including a provisional license, as a ~~baccalaureate~~ licensed
5 bachelor of social ~~worker~~ work, one hundred fifty dollars
6 (\$150);

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

10 H. for licensure without ~~written~~ examination,
11 including a provisional license, as ~~an~~ a licensed independent
12 social worker, three hundred dollars (\$300);

13 I. for renewal of a license as a ~~baccalaureate~~
14 licensed bachelor of social ~~worker~~ work, one hundred dollars
15 (\$100);

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

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

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

22 M. for a duplicate license, twenty-five dollars
23 (\$25.00)."

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

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

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

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

- 15 A. is at least eighteen years of age;
16 B. possesses at least a master's degree in social
17 work from a graduate program of social work accredited by a
18 recognized association;
19 C. completed post-graduate social work hours and
20 experience as an employee or independent worker under
21 appropriate supervision;
22 D. is trained in New Mexico cultures;
23 E. passed a jurisprudence examination; and
24 F. passed an examination approved by the board,
25 including an advanced generalist examination administered by a

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1 nonprofit association composed of and owned by social work
2 regulatory boards and colleges in all states."

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

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

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

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

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

- 7 A. is at least eighteen years of age;
8 B. possesses at least a master's degree in social
9 work from a graduate program of social work accredited by a
10 recognized association;
11 C. is trained in New Mexico cultures;
12 D. passed a jurisprudence examination; and
13 E. passed an examination approved by the board,
14 including a master's examination administered by a nonprofit
15 association composed of and owned by social work regulatory
16 boards and colleges in all states."

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

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

- 25 A. is at least eighteen years of age;

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

4 C. is trained in New Mexico cultures;

5 D. passed a jurisprudence examination; and

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

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

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

16 SECTION 16. REPEAL.--Sections 61-31-2, 61-31-9, 61-31-12,
17 61-31-13.1 and 61-31-23 NMSA 1978 (being Laws 1989, Chapter 51,
18 Sections 2, 9 and 12, Laws 2006, Chapter 4, Section 8 and Laws
19 1989, Chapter 51, Section 23, as amended) are repealed.