

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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
Practice Act:

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

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

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

1 organization;

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

5 F. "continuing education" means approved education
6 and training that are oriented to maintain, improve or
7 enhance social work practice;

8 G. "department" means the regulation and licensing
9 department;

10 H. "executive agency" means any agency within the
11 executive branch of government;

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

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

22 K. "licensed independent social worker" means a
23 person who is licensed in the state to engage in social work
24 practice other than clinical social work and meets the
25 qualifications for a licensed independent social worker

1 pursuant to the Social Work Practice Act;

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

6 M. "professional code of ethics" means a code of
7 ethics or professional standards promulgated by a national
8 organization of social work professionals that provides
9 guidance, research, advocacy and other services to social
10 workers;

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

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

20 (1) provides evaluation of and direction to
21 a licensed bachelor of social work or a licensed master of
22 social work; and

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

1 work; and

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

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

6 "61-31-4. LICENSE REQUIRED.--

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

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

14 (2) use the title or make any representation
15 as being a licensed social worker of any type or level or use
16 any other title, abbreviation, letters, figures, signs or
17 devices that indicate the person is licensed as a social
18 worker.

19 B. Notwithstanding the provisions of Subsection A
20 of this section, an individual who is employed in an
21 executive agency on or after July 1, 1989 under the title of
22 social worker or other title that is deemed to be social work
23 practice by the board and who has a bachelor's degree or
24 higher in a field other than social work shall not be
25 required to be licensed until July 1, 1992; provided an

1 employee of an executive agency who qualifies for licensure
2 under the provisions of the Social Work Practice Act shall
3 apply for licensure as provided in that act."

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

6 "61-31-5. USE OF TITLE--OTHER PROFESSIONS.--

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

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

11 (2) hold the individual out as a social
12 worker or claim to be a social worker or use the title of
13 social worker; or

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

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

25 SECTION 4. Section 61-31-7 NMSA 1978 (being Laws 1989,

1 Chapter 51, Section 7, as amended) is amended to read:

2 "61-31-7. BOARD CREATED.--

3 A. There is created the "board of social work
4 examiners".

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

7 C. The board shall consist of seven members who
8 are representative of the geographic and ethnic groups within
9 New Mexico and who have been New Mexico residents prior to
10 their appointment. Of the seven members:

11 (1) four members shall have been engaged in
12 social work practice for at least five years; at least two of
13 the four shall hold a master's degree in social work; and at
14 least two shall hold a bachelor's degree in social work from
15 schools of social work that are accredited by the council on
16 social work education. At least one of these members shall
17 be engaged primarily in clinical social work practice; one
18 member shall be engaged primarily in education; one member
19 shall be engaged primarily in administration or research in
20 social work practice; and at least one member shall be
21 engaged primarily in community organization, planning and
22 development. These members may join professional
23 organizations and associations organized exclusively to
24 promote the improvement of the practice of social work for
25 the protection of the health and welfare of the public or

1 whose activities assist and facilitate the work of the board;
2 and

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

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

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

19 F. 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.

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

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

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

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

9 (1) the neglect of any duty required by law;
10 (2) incompetence;
11 (3) improper or unprofessional conduct as
12 defined by board rule;

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

18 (5) any reason that would justify the
19 suspension or revocation of that member's license to practice
20 social work.

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

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

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

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

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

16 B. select, prepare and administer, at least
17 annually, examinations for licensure;

18 C. adopt a current professional code of ethics or
19 professional standards promulgated by a national organization
20 of social work professionals that provides guidance,
21 research, advocacy and other services to social workers;

22 D. appoint advisory committees pursuant to Section
23 61-31-19 NMSA 1978;

24 E. conduct hearings on an appeal of a denial of a
25 license based on the applicant's failure to meet the minimum

1 qualifications for licensure. The hearing shall be conducted
2 pursuant to the Uniform Licensing Act;

3 F. require and establish criteria for continuing
4 education;

5 G. issue subpoenas, statements of charges,
6 statements of intent to deny licenses and orders and delegate
7 in writing to a designee the authority to issue subpoenas,
8 statements of charges and statements of intent to deny
9 licenses and establish procedures for receiving,
10 investigating and conducting hearings on complaints;

11 H. request that an individual who is violating the
12 Social Work Practice Act:

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

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

21 I. develop criteria to approve appropriate
22 supervision for a person seeking licensure as a licensed
23 independent social worker or a licensed clinical social
24 worker based upon the prospective supervisor's:

25 (1) education;

1 (2) experience; and

2 (3) level of training;

3 J. issue provisional licenses, temporary licenses
4 and licenses based on credentials to persons meeting the
5 requirements set forth in the Social Work Practice Act;

6 K. determine qualifications for licensure,
7 including the requirement to demonstrate an awareness and
8 knowledge of New Mexico cultures;

9 L. set fees for licenses as authorized by the
10 Social Work Practice Act and authorize all disbursements
11 necessary to carry out the provisions of the Social Work
12 Practice Act;

13 M. keep a record and provide notice of all
14 proceedings in accordance with the Open Meetings Act and
15 shall make an annual report to the governor; and

16 N. determine the appropriate application of
17 technology to social work practice, including video
18 teleconferencing, for appropriate supervision and client
19 contact."

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

22 "61-31-10. EXAMINATION.--The date and location of the
23 social work licensure examination shall be established by the
24 board. Applicants who have been found to meet the education
25 and experience requirements for licensure shall be scheduled

1 for the next examination following the filing of the
2 application. The board shall establish by rule the
3 examination application deadline and other rules relating to
4 the retaking of the licensure examination."

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

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

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

17 "61-31-14. LICENSE RENEWAL.--

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

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

6 C. Any licensee who allows the licensee's license
7 to lapse for longer than three months shall have the license
8 automatically revoked and may be required to take an
9 examination.

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

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

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

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

19 B. for initial licensure following an examination
20 as a licensed bachelor of social work, two hundred dollars
21 (\$200);

22 C. for initial licensure following an examination
23 as a licensed master of social work, three hundred dollars
24 (\$300);

25 D. for initial licensure following an examination

1 as a licensed independent social worker, three hundred
2 dollars (\$300);

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

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

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

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

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

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

18 K. for renewal of a license as 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
25 1989, Chapter 51, Section 27, as amended) is amended to read:

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

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

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

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

1 regulatory boards and colleges in all states."

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

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

9 A. is at least eighteen years of age;

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

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

16 D. is trained in New Mexico cultures;

17 E. passed a jurisprudence examination; and

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

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

24 "LICENSED MASTER OF SOCIAL WORK--LICENSURE--
25 QUALIFICATIONS.--After receipt of an application, requisite

1 fees and documentation in accordance with board rules, the
2 board shall issue in a timely manner a license to practice as
3 a licensed master of social work to an individual who:

4 A. is at least eighteen years of age;

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

8 C. is trained in New Mexico cultures;

9 D. passed a jurisprudence examination; and

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

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

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

21 A. is at least eighteen years of age;

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

25 C. is trained in New Mexico cultures;

1 D. passed a jurisprudence examination; and

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

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

8 "APPROPRIATE SUPERVISION--GUIDELINES.--An individual
9 providing appropriate supervision as defined in Section
10 61-31-3 NMSA 1978 shall conform to supervision guidelines
11 that the board establishes by rule."

12 SECTION 16. REPEAL.--Sections 61-31-2, 61-31-9,
13 61-31-12, 61-31-13.1 and 61-31-23 NMSA 1978 (being Laws 1989,
14 Chapter 51, Sections 2, 9 and 12, Laws 2006, Chapter 4,
15 Section 8 and Laws 1989, Chapter 51, Section 23, as amended)
16 are repealed.

17
18
19
20
21
22
23
24
25