

HOUSE COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 191

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO LICENSURE; CLARIFYING THAT PROFESSIONAL AND OCCUPATIONAL LICENSING BOARDS ARE REQUIRED TO FOLLOW THE PROVISIONS OF THE STATE RULES ACT WHEN PROMULGATING RULES AND THE PROVISIONS OF THE UNIFORM LICENSING ACT FOR LICENSING AND DISCIPLINARY MATTERS; PROVIDING FOR EXPEDITED LICENSURE FOR PERSONS HOLDING PROFESSIONAL OR OCCUPATIONAL LICENSES FROM OTHER LICENSING JURISDICTIONS; REVISING BOARD OF BARBERS AND

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COSMETOLOGISTS AND REGULATION AND LICENSING DEPARTMENT POWERS AND DUTIES; REVISING CERTAIN LICENSING REQUIREMENTS; ESTABLISHING CERTAIN FEES; EXTENDING THE SUNSET DATE FOR THE BOARD OF BODY ART PRACTITIONERS; AMENDING, REPEALING, ENACTING AND RECOMPILING SECTIONS OF THE NMSA 1978.

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

SECTION 1. Section 61-1-2 NMSA 1978 (being Laws 1957, Chapter 247, Section 2, as amended) is amended to read:

"61-1-2. DEFINITIONS.--As used in the Uniform Licensing Act:

A. "board" means:

(1) the construction industries commission, the construction industries division and the electrical bureau, mechanical bureau and general construction bureau of the construction industries division of the regulation and licensing department;

(2) the manufactured housing committee and manufactured housing division of the regulation and licensing department;

(3) the crane operators licensure examining council;

~~(4)~~ (4) a board, commission or agency that administers a profession or occupation licensed pursuant to Chapter 61 NMSA 1978; and

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[~~(4)~~] (5) any other state agency to which the Uniform Licensing Act is applied by law;

B. "applicant" means a person who has applied for a license;

C. "expedited license", whether by examination, endorsement, credential or reciprocity, means a license issued to a person in this state based on licensure in another state or territory of the United States, the District of Columbia or a foreign country, as applicable;

D. "initial license" means the first regular license received from a board for a person who has not been previously licensed;

[G.] E. "license" means a certificate, permit or other authorization to engage in [~~each of the professions and occupations~~] a profession or occupation regulated by [the boards enumerated in Subsection A of this section] a board;

F. "licensing jurisdiction" means another state or territory of the United States, the District of Columbia or a foreign country, as applicable;

G. "regular license" means a license that is not issued as a temporary or provisional Hf11→~~licence~~←Hf11
Hf11→license←Hf11;

[D.] H. "revoke a license" means to prohibit the conduct authorized by the license; and

[E.] I. "suspend a license" means to prohibit, for a stated period of time, the conduct authorized by the license. "Suspend a license" also means to allow, for a stated period of time, the conduct authorized by the license, subject to

conditions that are reasonably related to the grounds for suspension [~~and~~

~~F. "emergency" includes any man-made or natural disaster causing or threatening widespread physical or economic harm that is beyond local control and requires the resources of the state]."~~

SECTION 2. A new section of the Uniform Licensing Act is enacted to read:

"[NEW MATERIAL] RESIDENCY IN NEW MEXICO NOT A REQUIREMENT FOR LICENSURE.--A person who otherwise meets the requirements for a professional or occupational license shall not be denied licensure or relicensure because the person does not live in New Mexico."

SECTION 3. A new section of the Uniform Licensing Act is enacted to read:

"[NEW MATERIAL] INCOMPLETE APPLICATION--NOTICE-- EXPIRATION.--If a board deems an application for licensure incomplete, the board shall notify the applicant within thirty days, including the ways in which the application is incomplete. An incomplete application expires after one year."

SECTION 4. Section 61-1-4 NMSA 1978 (being Laws 1957, Chapter 247, Section 4, as amended) is amended to read:

"61-1-4. NOTICE OF CONTEMPLATED BOARD ACTION--REQUEST FOR HEARING--NOTICE OF HEARING.--

A. [~~For the purpose of~~] When investigating

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complaints against licensees, [~~the~~] a board may issue investigative subpoenas prior to the issuance of a notice of contemplated action as provided in this section.

B. When a board contemplates taking [~~any~~] an action of a type specified in Subsection A, B or C of Section 61-1-3 NMSA 1978, it shall serve upon the applicant a written notice containing a statement:

(1) that the applicant has failed to satisfy the board of [~~his~~] the applicant's qualifications to be examined or to be issued a license, as the case may be;

(2) indicating in what respects the applicant has failed to satisfy the board;

(3) that the applicant may secure a hearing before the board by depositing in the mail within twenty days after service of the notice a certified return receipt requested letter addressed to the board and containing a request for a hearing; and

(4) calling the applicant's attention to [~~his~~] the applicant's rights under Section 61-1-8 NMSA 1978.

C. In [~~any~~] a board proceeding to take [~~any~~] an action of a type specified in Subsection A, B or C of Section 61-1-3 NMSA 1978, the burden of satisfying the board of the applicant's qualifications shall be upon the applicant.

D. When a board contemplates taking [~~any~~] an action of a type specified in Subsections D through N of Section 61-1-3 NMSA 1978, it shall serve upon the licensee a written notice containing a statement:

(1) that the board has sufficient evidence

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that, if not rebutted or explained, will justify the board in taking the contemplated action;

(2) indicating the general nature of the evidence;

(3) that unless the licensee within twenty days after service of the notice deposits in the mail a certified return receipt requested letter addressed to the board and containing a request for a hearing, the board ~~will~~ shall take the contemplated action; and

(4) calling the licensee's attention to ~~his~~ the licensee's rights as provided in Section 61-1-8 NMSA 1978.

E. Except as provided in Section 61-1-15 NMSA 1978, if the licensee or applicant does not mail a request for a hearing within the time and in the manner required by this section, the board may take the action contemplated in the notice and such action shall be final and not subject to judicial review.

F. If the licensee or applicant does mail a request for a hearing as required by this section, the board shall, within twenty days of receipt of the request, notify the licensee or applicant of the time and place of hearing, the name of the person who shall conduct the hearing for the board and the statutes and ~~regulations~~ rules authorizing the board to take the contemplated action. The hearing shall be held not more than sixty nor less than fifteen days from the date of

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service of the notice of hearing.

G. Licensees shall bear all costs of disciplinary proceedings unless they are excused by the board from paying all or part of the fees or if they prevail at the hearing and an action specified in Section 61-1-3 NMSA 1978 is not taken by the board.

H. All fines collected by a board shall be deposited to the credit of the current school fund as provided in Article 12, Section 4 of the constitution of New Mexico."

SECTION 5. Section 61-1-29 NMSA 1978 (being Laws 1971, Chapter 54, Section 3, as amended) is amended to read:

"61-1-29. ADOPTION OF [REGULATIONS] RULES--NOTICE AND HEARING.--[A.—The] Rulemaking procedures [~~specified in Sections 61-1-29 through 61-1-31 NMSA 1978 shall be applicable to proceedings by a board to adopt, amend or repeal rules or regulations of general applicability which implement or interpret a law enforced or administered by the]~~ of a board [~~These procedures shall not apply to:~~

(1) ~~statements, policies, procedures or regulations concerning only internal management or discipline of a board and not affecting the rights of or procedures available to licensees, applicants or the public generally;~~

(2) ~~declaratory rulings issued pursuant to Section 61-1-33 NMSA 1978;~~

(3) ~~decisions, statements or interpretations issued or actions taken in the course of disciplinary proceedings against a licensee; or~~

(4) ~~formal or informal opinions of the~~

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~~attorney general issued pursuant to requests of the board.~~

~~B. No regulation or amendment or repeal thereof shall be adopted by the board until after a public hearing by the board.~~

~~C. The board shall make reasonable efforts to give notice of any rulemaking proceeding to its licensees and to the members of the public. Notice of the hearing shall be given at least thirty days prior to the hearing date and shall state the subject, the time and the place of the hearing and the manner in which interested persons may present their views. The notice shall also state where interested persons may secure copies of any proposed regulations. The notice of the public hearing shall include but not necessarily be limited to publishing the notice in a newspaper of general circulation in the state, and the board shall give notice to all persons who have made a written request to the board for advance notice.~~

~~D. At the hearing, the board shall allow all interested persons reasonable opportunity to submit data, views or arguments orally or in writing and to examine witnesses testifying at the hearing. Any person heard or represented at the hearing shall be given written notice of the action of the board. The board may designate a hearing officer to take evidence in the hearing. A record shall be made of all proceedings at the hearing.~~

~~E. No regulation or amendment or repeal thereof~~

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~~shall become effective until thirty days after its filing under the State Rules Act]~~ shall be as provided in the State Rules Act."

SECTION 6. Section 61-1-31 NMSA 1978 (being Laws 1971, Chapter 54, Section 5, as amended) is amended to read:

"61-1-31. VALIDITY OF ~~[REGULATION]~~ RULE--JUDICIAL REVIEW.--

A. ~~[Any]~~ A person who is or may be affected by a ~~[regulation adopted]~~ rule promulgated by ~~[the]~~ a board may appeal to the court of appeals for relief. All appeals shall be upon the record made at the hearing by the board and shall be taken to the court of appeals within thirty days after filing of the ~~[regulation under]~~ rule pursuant to the State Rules Act.

B. An appeal to the court of appeals under this section is perfected by the timely filing of a notice of appeal with the court of appeals, with a copy attached of the ~~[regulation]~~ rule from which the appeal is taken. The appellant shall certify in ~~[his]~~ the appellant's notice of appeal that arrangements have been made with the board for preparation of a sufficient number of transcripts of the record of the hearing on which the appeal depends to support ~~[his]~~ the appellant's appeal to the court, at the expense of the appellant, including three copies ~~[which he]~~ that the appellant shall furnish to the board.

C. Upon appeal, the court of appeals shall set aside the ~~[regulation]~~ rule only if it is found to be:

- (1) arbitrary, capricious or an abuse of

discretion;

(2) contrary to law; or

(3) against the clear weight of substantial evidence of the record."

SECTION 7. Section 61-1-31.1 NMSA 1978 (being Laws 2016, Chapter 19, Section 1, as amended) is amended to read:

"61-1-31.1. EXPEDITED LICENSURE--ISSUANCE.--

A. A ~~[state agency]~~ board ~~[or commission]~~ that issues an occupational or professional license pursuant to ~~[Chapter 61 Articles 2 through 14E, 24, 24A and 31 NMSA 1978]~~ this 2022 act shall, as soon as practicable but no later than thirty days after ~~[a person]~~ an out-of-state licensee files an application for ~~[a]~~ an expedited license accompanied by any required fees:

(1) process the application; and

(2) issue a license to a qualified applicant who submits satisfactory evidence that the applicant:

(a) holds a license that is current and in good standing issued by another licensing jurisdiction; ~~[in the United States that has met the minimal licensing requirements that are substantially equivalent to the licensing requirements for the occupational or professional license the applicant applies for pursuant to Chapter 61, Articles 2 through 14E, 24, 24A and 31 NMSA 1978; and]~~

(b) ~~Hf11~~ unless otherwise provided by

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law, ←Hf11 has practiced the profession or occupation for which expedited licensure is sought for Hf11 →~~at least two years immediately prior to application for a license in New Mexico~~ ←Hf11 Hf11 → a period required by New Mexico law ←Hf11 ; and

[~~(b) has provided~~] (c) provides fingerprints and other information necessary for a state and national criminal background check, if required.

B. [A] An expedited license [~~issued pursuant to this section~~] is [~~not~~] a one-year provisional license [~~and~~] that confers the same rights, privileges and responsibilities as [a license] regular licenses issued [pursuant to Chapter 61 Articles 2 through 14E, 24, 24A and 31 NMSA 1978] by a board; provided that a board may extend an expedited license upon a showing of extenuating circumstances.

C. Before the end of the expedited license period and upon application, a board shall issue a regular license through its license renewal process. If a board requires a state or national examination for initial licensure that was not required when the out-of-state applicant was licensed in the other licensing jurisdiction, the board shall issue the expedited license and may require the license holder to pass the required examination prior to renewing the license.

D. A board by rule shall determine those states and territories of the United States and the District of Columbia from which the board will not accept an applicant for expedited licensure and those foreign countries from which the board will accept an applicant for expedited licensure. The list of those

licensing jurisdictions shall be posted on the board's website. The list of disapproved licensing jurisdictions shall include the specific reasons for disapproval. The lists shall be reviewed by the board annually to determine if amendments to the rule are warranted."

SECTION 8. A new section of the Uniform Licensing Act is enacted to read:

"~~[NEW MATERIAL]~~ TEMPORARY OR PROVISIONAL LICENSE--EVIDENCE OF INSURANCE.--A board may issue a temporary or other provisional license, including an expedited license, to a person licensed in another licensing jurisdiction, which license is limited as to a time, practice or other requirement of regular licensure. If a board requires regular licensees to carry professional or occupational liability or other insurance, the board shall require the applicant for a temporary or provisional license to show evidence of having required insurance that will cover the person in New Mexico during the term of the temporary or provisional license. Each board shall provide information on the board's website that describes the insurance requirements for practice in New Mexico."

SECTION 9. Section 61-1-32 NMSA 1978 (being Laws 1981, Chapter 349, Section 22) is amended to read:

"61-1-32. PETITION FOR ADOPTION, AMENDMENT OR REPEAL OF ~~[REGULATIONS]~~ RULES.--~~[Any]~~ An interested person may request in

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writing that a board subject to the Uniform Licensing Act adopt, amend or repeal a [~~regulation~~] rule. Within one hundred twenty days after receiving the written request, the board shall either initiate proceedings in accordance with [~~Section 61-1-29 NMSA 1978 to adopt the regulation~~] the State Rules Act or issue a concise written statement of its reason for denial of the request. The denial of such a request is not subject to judicial review."

SECTION 10. Section 61-1-34 NMSA 1978 (being Laws 2013, Chapter 33, Section 1, as amended) is amended to read:

"61-1-34. EXPEDITED LICENSURE--MILITARY SERVICE MEMBERS, SPOUSES AND DEPENDENTS AND VETERANS--WAIVER OF FEES.--

A. A [~~state agency~~] board [~~or commission~~] that issues an occupational or professional license pursuant to Chapter 61 NMSA 1978 shall, as soon as practicable but no later than thirty days after a military service member or a veteran files an application, and provides a background check if required [~~for a license accompanied by any required fees~~]:

(1) process the application; and

(2) issue a license prima facie to a qualified applicant who submits satisfactory evidence that the applicant holds a license that is current and in good standing, issued by another jurisdiction, including a branch of the armed forces of the United States [~~and has met minimal licensing requirements that are substantially equivalent to the licensing requirements for the occupational or professional license that the applicant applies for pursuant to Chapter 61 NMSA 1978~~].

B. A license issued pursuant to this section is

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[not] a provisional license [and] but shall confer the same rights, privileges and responsibilities as a regular license. [issued pursuant to Chapter 61 NMSA 1978.

~~C. A license issued pursuant to this section shall not be renewed unless the license holder satisfies the requirements for the issuance and the renewal of a license pursuant to Chapter 61 NMSA 1978. Upon the issuance of a license pursuant to this section, the issuing state agency, board or commission shall notify the license holder of the requirements for renewing the license in writing.~~

~~D. Notwithstanding the provisions of Subsection A of this section] If the military service member or veteran was licensed in a licensing jurisdiction that did not require examination, a board may require the military service member or veteran to take a board-required examination before making application for renewal.~~

C. A military service member or a veteran who is issued a license pursuant to this section shall not be charged a licensing fee for the first three years [a license issued pursuant to this section is valid] of licensure.

~~[E.]~~ D. Each [state agency] board [or commission] that issues a license [or certificate] to practice a trade or profession shall, upon the conclusion of the state fiscal year, prepare a report on the number and type of licenses [or certificates] that were issued during the fiscal year under

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this section. The report shall be provided to the director of the office of military base planning and support not later than ninety days after the end of the fiscal year.

[F-] E. As used in this section:

~~[(1) "license" means a license, registration, certificate of registration, certificate, permit or certification;~~

(2)] (1) "licensing fee" means a fee charged at the time an application for a professional or occupational license is submitted to the state agency, board or commission and any fee charged for the processing of the application for such license; "licensing fee" does not include a fee for an annual inspection or examination of a licensee or a fee charged for copies of documents, replacement licenses or other expenses related to a professional or occupational license;

~~[(3)]~~ (2) "military service member" means a person who is:

(a) serving in the armed forces of the United States as an active duty member, or in an active reserve component of the armed forces of the United States, including the national guard;

(b) the spouse of a person who is serving in the armed forces of the United States or in an active reserve component of the armed forces of the United States, including the national guard, or a surviving spouse of a member who at the time of the member's death was serving on active duty; or

(c) the child of a ~~[person who is~~

~~serving in the armed forces of the United States as an active duty member, or in an active reserve component of the armed forces of the United States, including the national guard, provided that]~~ military service member if the child is also a dependent of that person for federal income tax purposes; and

[~~(4)~~] (3) "veteran" means a person who has received an honorable discharge or separation from military service."

SECTION 11. Section 61-2-6 NMSA 1978 (being Laws 1973, Chapter 353, Section 5, as amended) is amended to read:

"61-2-6. OPTOMETRY BOARD ORGANIZATION--MEETINGS--
COMPENSATION--POWERS AND DUTIES.--

A. The board shall annually elect a chair, a vice chair and a secretary-treasurer; each shall serve until a successor is elected and qualified.

B. The board shall meet at least annually for the purpose of examining candidates for licensure. Special meetings may be called by the chair and shall be called upon the written request of a majority of the board members. A majority of the board members currently serving constitutes a quorum.

C. Members of the board may be reimbursed as provided in the Per Diem and Mileage Act but shall receive no other compensation, perquisite or allowance.

D. The board has the authority to determine what

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constitutes the practice of optometry in accordance with the provisions of the Optometry Act and has jurisdiction to exercise any other powers and duties pursuant to that act. The board may issue advisory opinions and declaratory rulings pursuant to that act and rules promulgated in accordance with ~~[that]~~ the State Rules Act, but shall not expand the scope of practice of optometry beyond the provisions of ~~[that]~~ the Optometry Act.

E. The board shall:

- (1) administer and enforce the provisions of the Optometry Act;
- (2) ~~[adopt, publish and file]~~ promulgate in accordance with ~~[the Uniform Licensing Act and]~~ the State Rules Act, all rules for the implementation and enforcement of the provisions of the Optometry Act;
- (3) adopt and use a seal;
- (4) administer oaths and take testimony on matters within the board's jurisdiction;
- (5) keep an accurate record of meetings, receipts and disbursements;
- (6) keep a record of examinations held, together with the names and addresses of persons taking the examinations and the examination results. Within thirty days after an examination, the board shall give written notice to each applicant examined of the results of the examination as to the respective applicant;
- (7) certify as passing each applicant who obtains a grade of at least seventy-five percent on each

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subject upon which the applicant is examined; providing that an applicant failing may apply for re-examination at the next scheduled examination date;

(8) keep a book of registration in which the name, address and license number of licensees shall be recorded, together with a record of license renewals, suspensions and revocations;

(9) grant, deny, renew, suspend or revoke licenses to practice optometry in accordance with the provisions of the Uniform Licensing Act for any cause stated in the Optometry Act;

(10) develop and administer qualifications for certification for the use of pharmaceutical agents as authorized in Section 61-2-10.2 NMSA 1978, including minimum educational requirements and examination, as required by Section 61-2-10.2 NMSA 1978 and provide the board of pharmacy with an annual list of optometrists certified to use pharmaceutical agents as authorized in Section 61-2-10.2 NMSA 1978; and

(11) provide for the suspension of an optometrist's license for sixty days upon a determination of use of pharmaceutical agents without prior certification in accordance with Section 61-2-10.2 NMSA 1978, after proper notice and an opportunity to be heard before the board."

SECTION 12. Section 61-2-8 NMSA 1978 (being Laws 1973,

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Chapter 353, Section 7, as amended) is amended to read:

"61-2-8. QUALIFICATIONS FOR LICENSURE AS AN OPTOMETRIST.--Each applicant for licensure as an optometrist shall furnish evidence satisfactory to the board that the applicant:

A. has reached the age of majority; and

~~B. is of good moral character and of temperate habits;~~

~~C. has completed at least an approved four-year high school course of study or the equivalent as determined by regulations of the board; and~~

~~D.]~~ B. has graduated and been awarded a doctor of optometry degree from a school or college of optometry approved and accredited by the board. In the event the applicant applies for licensure by endorsement, the applicant shall have been awarded a doctor of optometry degree from a school or college of optometry, approved and accredited by the board, which had a minimum course of study of four thousand clock hours of instruction leading to that degree."

SECTION 13. Section 61-2-9 NMSA 1978 (being Laws 1973, Chapter 353, Section 8) is amended to read:

"61-2-9. LICENSURE BY EXAMINATION--EXPEDITED LICENSURE BY ENDORSEMENT.--

A. An applicant meeting the qualifications set forth in Section [~~67-1-7 NMSA 1953~~] 61-2-8 NMSA 1978 for initial licensure shall [~~(+)~~] file [~~his~~] an application under oath on forms supplied by the board for an examination by the board. The examination shall be confined to the subjects

within the curriculum of colleges of optometry approved and accredited by the board and shall include written tests and practical demonstrations and may include oral tests. [or

~~(2) file his application under oath on forms supplied by the board which conform to board regulations on endorsement and furnish proof satisfactory to the board of his having been licensed by examination in another state which had qualifications equal to or exceeding those required in this state on the date of his original licensure and satisfying the board that he holds a doctor of optometry degree from a school or college approved and accredited by the board which was obtained after the completion of a course of study with a minimum of four thousand clock hours of instruction. The applicant must have been actively engaged in the practice of optometry in the state of licensure or in federal service for seven consecutive years immediately prior to the year in which application is made. This proof shall be accepted in lieu of the written portion of the examination. Applicants for licensure without written examination shall be examined to the satisfaction of the board by practical, oral and clinical demonstration in the presence of a majority of the board, and a detailed record of such examination shall be kept and made available to the applicant at his request.~~

~~B. All applicants successfully passing the examinations shall be issued a license by the board upon~~

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~~payment of the license fee.]~~ A person issued a license by examination shall be issued the license upon payment of required fees.

B. No later than thirty days after an out-of-state licensee files an application for an expedited license, the board shall process the application and issue an expedited license in accordance with Section 61-1-31.1 NMSA 1978. If the board issues an expedited license to a person whose prior licensing jurisdiction did not require examination, the board may require the person to pass an examination before applying for license renewal.

C. The board by rule shall determine those states and territories of the United States and the District of Columbia from which it will not accept an applicant for expedited licensure and shall determine any foreign countries from which it will accept an applicant for expedited licensure. The board shall post the lists of disapproved and approved licensing jurisdictions on its website. The list of disapproved licensing jurisdictions shall include the specific reasons for disapproval. The lists shall be reviewed annually to determine if amendments to the rule are warranted."

SECTION 14. Section 61-3-10 NMSA 1978 (being Laws 1968, Chapter 44, Section 7, as amended by Laws 2003, Chapter 276, Section 4 and by Laws 2003, Chapter 307, Section 7) is amended to read:

"61-3-10. POWERS--DUTIES.--The board:

A. shall ~~[adopt and revise such]~~ promulgate rules ~~[and regulations]~~ in accordance with the State Rules Act as

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[~~may be~~] necessary to enable it to carry into effect the provisions of the Nursing Practice Act and to maintain high standards of practice;

B. shall prescribe standards and approve curricula for educational programs preparing persons for licensure under the Nursing Practice Act;

C. shall provide for surveys of educational programs preparing persons for licensure under the Nursing Practice Act;

D. shall grant, deny or withdraw approval from educational programs for failure to meet prescribed standards, if a majority of the board concurs in the decision;

E. shall provide for the examination, licensing and renewal of licenses of applicants;

F. shall conduct hearings upon charges relating to discipline of a licensee or

nurse not licensed to practice in New Mexico who is permitted to practice professional registered nursing or licensed practical nursing in New Mexico pursuant to a multistate licensure privilege as provided in the Nurse Licensure Compact;

G. conduct hearings upon charges related to an applicant or discipline of a licensee or the denial, suspension or revocation of a license in accordance with the procedures of the Uniform Licensing Act;

[~~G.~~] H. shall cause the prosecution of [~~all~~]

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persons [~~including firms, associations, institutions and corporations~~] violating the Nursing Practice Act and have the power to incur such expense as is necessary [~~therefor~~] for the prosecution;

[~~H.~~] I. shall keep a record of all proceedings;

[~~I.~~] J. shall make an annual report to the governor;

[~~J.~~] K. shall appoint and employ a qualified registered nurse, who shall not be a member of the board, to serve as executive officer to the board, [~~who~~] and the board shall define the duties and responsibilities of the executive officer except that the power to grant, deny or withdraw approval for schools of nursing or to revoke, suspend or withhold [~~any~~] a license authorized by the Nursing Practice Act shall not be delegated by the board;

[~~K.~~] L. shall provide for such qualified assistants as may be necessary to carry out the provisions of the Nursing Practice Act. Such employees shall be paid a salary commensurate with their duties;

[~~L.~~] M. shall, for the purpose of protecting the health and well-being of [~~the citizens~~] residents of New Mexico and promoting current nursing knowledge and practice, [~~adopt~~] promulgate rules [~~and regulations~~] establishing continuing education requirements as a condition of license renewal and shall study methods of monitoring continuing competence;

[~~M.~~] N. may appoint advisory committees consisting of at least one member who is a board member and at least two members who are expert in the pertinent field of health care to

assist it in the performance of its duties. Committee members may be reimbursed as provided in the Per Diem and Mileage Act;

[N.] O. may [~~adopt and revise~~] promulgate rules [~~and regulations~~] designed to maintain an inactive status listing for registered nurses and licensed practical nurses;

[O.] P. may [~~adopt~~] promulgate rules [~~and regulations~~] to regulate the advanced practice of professional registered nursing and expanded practice of licensed practical nursing;

[P.] Q. shall license qualified certified nurse practitioners, certified registered nurse anesthetists and clinical nurse specialists;

[Q.] R. shall register nurses not licensed to practice in New Mexico who are permitted to practice professional registered nursing or licensed practical nursing in New Mexico pursuant to a multistate licensure privilege as provided in the Nurse Licensure Compact; [~~and~~

R.] S. shall [~~adopt~~] promulgate rules [~~and regulations~~] establishing standards for authorizing prescriptive authority to certified nurse practitioners, clinical nurse specialists and certified registered nurse anesthetists; and

T. shall determine by rule the states and territories of the United States or the District of Columbia from which it will not accept an applicant for expedited

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licensure and shall determine any foreign countries from which it will accept an applicant for expedited licensure. The board shall post the lists of unapproved and approved licensing jurisdictions on the board's website. The list of disapproved licensing jurisdictions shall include the specific reasons for disapproval. The lists shall be reviewed annually to determine if amendments to the rule are warranted."

SECTION 15. Section 61-3-14 NMSA 1978 (being Laws 1968, Chapter 44, Section 11, as amended) is amended to read:

"61-3-14. LICENSURE OF REGISTERED NURSES--BY EXAMINATION--EXPEDITED LICENSURE.--

A. Applicants for licensure by examination shall be required to pass the national licensing examination for registered nurses. The applicant who successfully passes the examination may be issued by the board a license to practice as a registered nurse.

B. The board [~~may~~] shall issue [~~a~~] an expedited license to practice professional registered nursing without an examination to an applicant who has been duly licensed [~~by taking the national licensing examination for registered nurses under the laws of another state if the applicant meets the qualifications required of registered nurses in this state.~~ From July 1, 2014 through June 30, 2019, upon a determination by the board that an application is complete and approved] in another licensing jurisdiction and holds a valid, unrestricted license and is in good standing with the licensing board in that licensing jurisdiction. The board shall expedite the issuance of a license [~~pursuant to this subsection within five~~

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~~business days~~] in accordance with Section 61-1-31.1 NMSA 1978 within thirty days. If the board issues an expedited license to a person whose prior licensing jurisdiction did not require examination, the board may require that person to pass an examination before applying for license renewal.

C. ~~[The board may issue a license to practice as a registered nurse to]~~ An applicant licensed under the laws of ~~[another]~~ a territory or foreign country ~~[if the applicant meets the qualifications required of registered nurses in this state, is proficient]~~ shall demonstrate proficiency in English [and passes the national licensing examination for registered nurses]."

SECTION 16. Section 61-3-19 NMSA 1978 (being Laws 1968, Chapter 44, Section 16, as amended) is amended to read:

"61-3-19. LICENSURE OF LICENSED PRACTICAL NURSES--BY EXAMINATION--BY EXPEDITED LICENSURE.--

A. Applicants for licensure by examination shall be required to pass the national licensing examination for licensed practical nurses. The applicant who passes the examination may be issued by the board a license to practice as a licensed practical nurse.

B. The board ~~[may]~~ shall issue ~~[a]~~ an expedited license as a licensed practical nurse without an examination to an applicant who has been duly licensed ~~[by passing the national licensing examination for licensed practical nurses~~

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~~under the laws of another state if the applicant meets the qualifications required of licensed practical nurses in this state. From July 1, 2014 through June 30, 2019, upon a determination by the board that an application is complete and approved]~~ in another licensing jurisdiction and holds a valid, unrestricted license and is in good standing with the licensing board in that licensing jurisdiction. The board shall expedite the issuance of a license [~~pursuant to this subsection within five business days~~] in accordance with Section 61-1-31.1 NMSA 1978 within thirty days. If the board issues an expedited license to a person whose prior licensing jurisdiction did not require examination, the board may require that person to pass an examination before applying for license renewal.

C. [~~The board may issue a license to practice as a licensed practical nurse to]~~ An applicant licensed under the laws of [~~another~~] a territory or foreign country [~~if the applicant meets the qualifications required of licensed practical nurses in this state, is proficient]~~ shall demonstrate proficiency in English [and successfully passes the national licensing examination for licensed practical nurses]."

SECTION 17. Section 61-3-23.2 NMSA 1978 (being Laws 1991, Chapter 190, Section 14, as amended) is amended to read:

"61-3-23.2. CERTIFIED NURSE PRACTITIONER--
QUALIFICATIONS--PRACTICE--EXAMINATION--ENDORSEMENT--EXPEDITED
LICENSURE.--

A. The board may license for advanced practice as a certified nurse practitioner an applicant who furnishes evidence satisfactory to the board that the applicant:

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(1) is a registered nurse;

(2) has successfully completed a program for the education and preparation of nurse practitioners; provided that, if the applicant is initially licensed by the board or a board in another jurisdiction after January 1, 2001, the program shall be at the master's level or higher;

(3) has successfully completed the national certifying examination in the applicant's specialty area; and

(4) is certified by a national nursing organization.

B. Certified nurse practitioners may:

(1) perform an advanced practice that is beyond the scope of practice of professional registered nursing;

(2) practice independently and make decisions regarding health care needs of the individual, family or community and carry out health regimens, including the prescription and distribution of dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act; and

(3) serve as a primary acute, chronic long-term and end-of-life health care provider and as necessary collaborate with licensed medical doctors, osteopathic physicians or podiatrists.

C. Certified nurse practitioners who have fulfilled

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requirements for prescriptive authority may prescribe in accordance with rules [~~regulations~~], guidelines and formularies for individual certified nurse practitioners promulgated by the board.

D. Certified nurse practitioners who have fulfilled requirements for prescriptive authority may distribute to their patients dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act that have been prepared, packaged or fabricated by a registered pharmacist or doses of drugs that have been prepackaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act and the New Mexico Drug, Device and Cosmetic Act.

E. Certified nurse practitioners licensed by the board on and after December 2, 1985 shall successfully complete a national certifying examination and shall maintain national professional certification in their specialty area. Certified nurse practitioners licensed by a board prior to December 2, 1985 are not required to sit for a national certification examination or be certified by a national organization.

~~[F. From July 1, 2014 through June 30, 2019, upon a determination by the board that an application is complete and approved, the board shall issue a license to a certified nurse practitioner licensed in another state if the applicant meets the qualifications required of certified nurse practitioners in this state. The board shall expedite the issuance of the license within five business days.]~~

F. The board shall issue an expedited license to an applicant without an examination if the person has been duly

licensed as a certified nurse practitioner in another licensing jurisdiction and is in good standing with the licensing board in that licensing jurisdiction. The board shall expedite the issuance of the license in accordance with Section 61-1-31.1 NMSA 1978 within thirty days. If the board issues an expedited license to a person whose prior licensing jurisdiction did not require examination, the board may require that person to pass an examination before applying for license renewal. An applicant licensed under the laws of a territory or foreign country shall demonstrate proficiency in English."

SECTION 18. Section 61-3-23.3 NMSA 1978 (being Laws 1991, Chapter 190, Section 15, as amended) is amended to read:

"61-3-23.3. CERTIFIED REGISTERED NURSE ANESTHETIST--
QUALIFICATIONS--LICENSURE--PRACTICE--ENDORSEMENT--EXPEDITED
LICENSURE.--

A. The board may license for advanced practice as a certified registered nurse anesthetist an applicant who furnishes evidence satisfactory to the board that the applicant:

(1) is a registered nurse;

(2) has successfully completed a nurse

anesthesia education program accredited by the council on accreditation of nurse anesthesia [~~education~~] educational programs; provided that, if the applicant is initially licensed by the board or a board in another licensing jurisdiction after

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January 1, 2001, the program shall be at a master's level or higher; and

(3) is certified by the ~~[council on]~~ national board of certification [of] and recertification for nurse anesthetists.

B. A certified registered nurse anesthetist may provide preoperative, intraoperative and postoperative anesthesia care and related services, including ordering of diagnostic tests, in accordance with the current American association of nurse anesthetists' guidelines for nurse anesthesia practice.

C. Certified registered nurse anesthetists shall function in an interdependent role as a member of a health care team in which the medical care of the patient is directed by a licensed physician, osteopathic physician, dentist or podiatrist licensed in New Mexico pursuant to ~~[Chapter 61, Article 5A, 6, 8 or 10 NMSA 1978]~~ the Dental Health Care Act, the Medical Practice Act or the Podiatry Act. The certified registered nurse anesthetist shall collaborate with the licensed physician, osteopathic physician, dentist or podiatrist concerning the anesthesia care of the patient. As used in this subsection, "collaboration" means the process in which each health care provider contributes the health care provider's respective expertise. Collaboration includes systematic formal planning and evaluation between the health care professionals involved in the collaborative practice arrangement.

D. A certified registered nurse anesthetist who has

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fulfilled the requirements for prescriptive authority in the area of anesthesia practice is authorized to prescribe and administer therapeutic measures, including dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act within the emergency procedures, perioperative care or perinatal care environments. Dangerous drugs and controlled substances, pursuant to the Controlled Substances Act, that have been prepared, packaged or fabricated by a registered pharmacist or doses of drugs that have been prepackaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act and the New Mexico Drug, Device and Cosmetic Act may be prescribed and administered.

E. A certified registered nurse anesthetist who has fulfilled the requirements for prescriptive authority in the area of anesthesia practice may prescribe in accordance with rules [~~regulations and guidelines~~] of the board. The board shall adopt rules concerning a prescriptive authority formulary for certified registered nurse anesthetists that shall be based on the scope of practice of certified registered nurse anesthetists. The board, in collaboration with the New Mexico medical board, shall develop the formulary. Certified registered nurse anesthetists who prescribe shall do so in accordance with the prescriptive authority formulary.

~~[F. From July 1, 2014 through June 30, 2019, upon a determination by the board that an application is complete and~~

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~~approved, the board shall issue a license to a certified registered nurse anesthetist licensed in another state if the applicant meets the qualifications required of certified registered nurse anesthetists in this state. The board shall expedite the issuance of the license within five business days.]~~

F. The board shall issue an expedited license to an applicant without an examination if the person has been duly licensed as a certified registered nurse anesthetist in another licensing jurisdiction and is in good standing with the licensing board in that licensing jurisdiction. The board shall expedite the issuance of the license in accordance with Section 61-1-31.1 NMSA 1978 within thirty days. If the board issues an expedited license to a person whose prior licensing jurisdiction did not require examination, the board may require that person to pass an examination before applying for license renewal. An applicant licensed under the laws of a territory or foreign country shall demonstrate proficiency in English.

G. A health care facility may adopt policies relating to the providing of anesthesia care.

H. A certified registered nurse anesthetist licensed by the board shall maintain this certification with the ~~[American association of nurse anesthetists' council on]~~ national board of certification and recertification for nurse anesthetists."

SECTION 19. Section 61-3-23.4 NMSA 1978 (being Laws 1991, Chapter 190, Section 16, as amended) is amended to read:

"61-3-23.4. CLINICAL NURSE SPECIALIST--QUALIFICATIONS--

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ENDORSEMENT--EXPEDITED LICENSURE.--

A. The board may license for advanced practice as a clinical nurse specialist an applicant who furnishes evidence satisfactory to the board that the applicant:

- (1) is a registered nurse;
 - (2) has a master's degree or doctoral degree in a defined clinical nursing specialty;
 - (3) has successfully completed a national certifying examination in the applicant's area of specialty;
- and
- (4) is certified by a national nursing organization.

B. Clinical nurse specialists may:

- (1) perform an advanced practice that is beyond the scope of practice of professional registered nursing;
- (2) make independent decisions in a specialized area of nursing practice using expert knowledge regarding the health care needs of the individual, family and community, collaborating as necessary with other members of the health care team when the health care need is beyond the scope of practice of the clinical nurse specialist; and
- (3) carry out therapeutic regimens in the area of specialty practice, including the prescription and distribution of dangerous drugs.

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C. A clinical nurse specialist who has fulfilled the requirements for prescriptive authority in the area of specialty practice is authorized to prescribe, administer and distribute therapeutic measures, including dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act within the scope of specialty practice, including controlled substances pursuant to the Controlled Substances Act that have been prepared, packaged or fabricated by a registered pharmacist or doses of drugs that have been prepackaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act and the New Mexico Drug, Device and Cosmetic Act.

D. Clinical nurse specialists who have fulfilled the requirements for prescriptive authority in the area of specialty practice may prescribe in accordance with rules, [regulations] guidelines and formularies based on scope of practice and clinical setting for individual clinical nurse specialists promulgated by the board.

E. Clinical nurse specialists licensed by the board shall maintain certification in their specialty area.

~~[F. From July 1, 2014 through June 30, 2019, upon a determination by the board that an application is complete and approved, the board shall issue a license to a clinical nurse specialist licensed in another state if the applicant meets the qualifications required of a clinical nurse specialist in this state. The board shall expedite the issuance of the license within five business days.]~~

F. The board shall issue an expedited license to an

applicant without an examination if the person has been duly licensed as a clinical nurse specialist in another licensing jurisdiction and is in good standing with the licensing board in that licensing jurisdiction. The board shall expedite the issuance of the license in accordance with Section 61-1-31.1 NMSA 1978 within thirty days. If the board issues an expedited license to a person whose prior licensing jurisdiction did not require examination, the board may require that person to pass an examination before applying for license renewal. An applicant licensed under the laws of a territory or foreign country shall demonstrate proficiency in English."

SECTION 20. Section 61-36-1 NMSA 1978 (being Laws 2017, Chapter 136, Section 1) is recompiled as Section 61-3B-1 NMSA 1978 and is amended to read:

"61-3B-1. SHORT TITLE.--~~[Sections 1 through 6 of this act]~~ Chapter 61, Article 3B NMSA 1978 may be cited as the "Lactation Care Provider Act"."

SECTION 21. Section 61-36-3 NMSA 1978 (being Laws 2017, Chapter 136, Section 3) is recompiled as Section 61-3B-3 NMSA 1978 and is amended to read:

"61-3B-3. BOARD POWERS.--The board may:

A. enforce the provisions of the Lactation Care Provider Act in accordance with the Uniform Licensing Act and ~~[adopt and]~~ promulgate rules in accordance with the State Rules Act to execute the provisions of ~~[that]~~ the Lactation Care

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Provider Act;

- B. license qualified applicants;
- C. discipline licensees;
- D. enforce qualification for licensure;
- E. establish standards for licensee competence for continuing in or returning to practice based on approved certification;
- F. issue orders relating to the practice of lactation care and services in accordance with the Uniform Licensing Act;
- G. regulate licensee advertising and prohibit false, misleading or deceptive practices;
- H. establish a code of conduct for licensees;
- I. prepare information for the public that describes the regulatory functions of the board and the procedures by which complaints are filed with and resolved by the board; and
- J. appoint a lactation care provider advisory committee consisting of at least one member who is a board member and at least two members who are experts in lactation to assist in the performance of the board's duties."

SECTION 22. Section 61-36-6 NMSA 1978 (being Laws 2017, Chapter 136, Section 6) is recompiled as Section 61-3B-6 NMSA 1978 and is amended to read:

"61-3B-6. DISCIPLINARY PROCEEDINGS.--

A. In accordance with the procedures contained in the Uniform Licensing Act, the board may deny, revoke or suspend ~~any~~ a license held or applied for pursuant to the

Lactation Care Provider Act, reprimand or place a licensee on probation or deny, limit or revoke a privilege of a licensee desiring to practice or practicing lactation care and services upon grounds that the licensee or applicant:

(1) is guilty of fraud or deceit in procuring or attempting to procure a license;

(2) is convicted of a felony;

(3) is unfit or incompetent;

(4) is intemperate or is addicted to the use of habit-forming drugs;

(5) is guilty of unprofessional conduct as defined by board rules;

(6) has willfully or repeatedly violated any provisions of the Lactation Care Provider Act, including any board rule adopted pursuant to that act; or

(7) was certified or licensed to provide lactation care and services in ~~[any]~~ another licensing jurisdiction ~~[territory or possession of the United States or another country]~~ and was the subject of disciplinary action for acts similar to acts described in this subsection. A certified copy of the record of the certification or licensure board disciplinary action taken by another licensing jurisdiction ~~[territory or possession of the United States or another country]~~ is conclusive evidence of the action.

B. The board may summarily suspend or restrict a

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license issued by the board without a hearing, simultaneously with or at any time after the initiation of proceedings for a hearing provided under the Uniform Licensing Act, if the board finds that evidence in its possession indicates that the licensee:

(1) poses a clear and immediate danger to the public health and safety if the licensee continues to practice;

(2) has been adjudged mentally incompetent by a final order or adjudication by a court of competent jurisdiction; or

(3) has pled guilty to or been found guilty of any offense related to the practice of medicine or for any violent criminal offense in this state or a substantially equivalent criminal offense in another jurisdiction.

C. A licensee is not required to comply with a summary action taken pursuant to Subsection B of this section until service has been made or the licensee has actual knowledge of the order, whichever occurs first.

D. A person whose license is suspended or restricted under this section is entitled to a hearing by the board pursuant to the Uniform Licensing Act within fifteen days from the date that the licensee requests a hearing.

E. Disciplinary proceedings may be instituted by any person, shall be by complaint and shall conform with the provisions of the Uniform Licensing Act. ~~Any~~ A party to a hearing may obtain a copy of the hearing record upon payment of costs for the copy.

F. ~~Any~~ A person filing a complaint shall be

immune from liability arising out of civil action if the complaint is filed in good faith and without actual malice.

G. All written and oral communication made by any person to the board relating to actual or potential disciplinary action, including complaints made to the board, shall be confidential communications and are not public records for the purposes of the Inspection of Public Records Act. All data, communications and information acquired, prepared or disseminated by the board relating to actual or potential disciplinary action or its investigation of complaints shall not be disclosed, except to the extent necessary to carry out the purposes of the board or in a judicial appeal from the actions of the board or in a referral of cases made to law enforcement agencies, national database clearinghouses or other licensing boards.

H. The board shall not initiate a disciplinary action more than two years after the date that it receives a complaint.

I. The time limitation contained in Subsection D of this section shall not be tolled by any civil or criminal litigation in which the licensee or applicant is a party, arising substantially from the same facts, conduct, transactions or occurrences that would be the basis for the board's disciplinary action.

J. The board may recover the costs associated with

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the investigation and disposition of a disciplinary proceeding from the person who is the subject of the proceeding."

SECTION 23. A new section of the Lactation Care Provider Act is enacted to read:

"[NEW MATERIAL] EXPEDITED LICENSE.--The board shall issue an expedited license to a person who holds a license in another licensing jurisdiction in accordance with Section 61-1-31.1 NMSA 1978 if the person holds a current approved certification or license in another licensing jurisdiction. The board by rule shall determine the states and territories of the United States and the District of Columbia from which it will not accept an applicant for expedited licensure and determine foreign countries from which it will accept an applicant for expedited licensure. The board shall post the lists of disapproved and approved licensing jurisdictions on its website. The list of disapproved licensing jurisdictions shall include the specific reasons for disapproval. The lists shall be reviewed annually to determine if amendments to the rule are warranted."

SECTION 24. Section 61-4-3 NMSA 1978 (being Laws 1968, Chapter 3, Section 3, as amended) is amended to read:

"61-4-3. BOARD CREATED--APPOINTMENT--OFFICERS--DUTIES--COMPENSATION.--

A. [~~There is created~~] The "chiropractic board" [~~The board shall be~~] is created and is administratively attached to the regulation and licensing department. The board shall consist of six persons, four [~~shall~~] of whom have been continuously engaged in the practice of chiropractic in New

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Mexico for five years immediately prior to their appointment. Two persons shall represent the public and shall not have practiced chiropractic in this state or any other jurisdiction. A person shall not be appointed to the board who is an officer or employee of or who is financially interested in any school or college of chiropractic, medicine, surgery or osteopathy.

B. Members of the board shall be appointed by the governor for staggered terms of five years or less and in a manner that the term of one board member expires on July 1 of each year. A list of five names for each professional member vacancy shall be submitted by the New Mexico chiropractic association to the governor for consideration in the appointment of board members. A vacancy shall be filled by appointment for the unexpired term. Board members shall serve until their successors have been appointed and qualified.

C. The board shall annually elect a chair and a secretary-treasurer. A majority of the board constitutes a quorum. The board shall meet quarterly. Special meetings may be called by the chair and shall be called upon the written request of two members of the board. Notification of special meetings shall be made by certified mail unless such notice is waived by the entire board and the action noted in the minutes. Notice of all regular meetings shall be made by regular mail at least ten days prior to the meeting, and copies of the minutes of all meetings shall be mailed to each board member within

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thirty days after a meeting.

D. A board member failing to attend three consecutive meetings, either regular or special, shall automatically be removed as a member of the board.

E. The board shall adopt a seal.

F. The board shall promulgate and file, in accordance with the State Rules Act, all rules [~~and regulations~~] necessary for the implementation and enforcement of the provisions of the Chiropractic Physician Practice Act, including educational requirements for a chiropractic assistant.

G. The board, for the purpose of protecting the health and well-being of the citizens of this state and maintaining and continuing informed professional knowledge and awareness, shall establish by [~~regulations adopted in accordance with the provisions of the Uniform Licensing Act~~] rule mandatory continuing education requirements for chiropractic physicians and certified advanced practice chiropractic physicians licensed in this state.

H. Failure to comply with the rules [~~and regulations~~] adopted by the board shall be grounds for investigation, which may lead to revocation of license.

I. Members of the board shall be reimbursed as provided in the Per Diem and Mileage Act, but shall receive no other compensation, perquisite or allowance for each day necessarily spent in the discharge of their duties."

SECTION 25. Section 61-4-8 NMSA 1978 (being Laws 1968, Chapter 3, Section 8) is amended to read:

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"61-4-8. LICENSE WITHOUT EXAMINATION.--

A. The board [~~may, in its discretion~~] shall issue a license without examination to a [~~chiropractor who has been licensed in any state, territory or foreign jurisdiction and~~] chiropractic physician who is a graduate of a standard college of chiropractic and has been licensed in another licensing jurisdiction if

~~A. the applicant is of good moral character;~~

~~B. the requirements of practice in the state, territory or province in which the applicant is licensed are equal to those of this state; and~~

~~C. the applicant pays the fee designated in Section 4;~~

~~The board may also, in its discretion, issue a license without examination to any chiropractor who has continuously practiced in another state for at least seven of the last ten years prior to application; or to any chiropractor who is a graduate of a standard college of chiropractic and has served in the military services of the United States for two years or more within one year prior to application; or to any applicant showing evidence of having passed the examination conducted by the national board of chiropractic examiners] the applicant holds a valid and unrestricted license, is in good standing with the licensing board of the other licensing jurisdiction and has practiced as a chiropractor for at least two years~~

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immediately prior to application in New Mexico. The board shall, as soon as practicable but no later than thirty days after a person files an application for a license accompanied by any required fees, process the application and issue the expedited license in accordance with Section 61-1-31.1 NMSA 1978. If the board issues an expedited license to a person whose prior licensing jurisdiction did not require examination, the board may require that person to pass an examination before applying for license renewal.

B. The board by rule shall determine the states and territories of the United States and the District of Columbia from which it will not accept an applicant for expedited licensure and foreign countries from which it will accept an applicant for expedited licensure. The board shall post the lists of disapproved and approved licensing jurisdictions on its website. The list of disapproved licensing jurisdictions shall include the specific reasons for disapproval. The lists shall be reviewed annually to determine if amendments to the rule are warranted."

SECTION 26. Section 61-5A-10 NMSA 1978 (being Laws 1994, Chapter 55, Section 10, as amended) is amended to read:

"61-5A-10. POWERS AND DUTIES OF THE BOARD AND COMMITTEE.--In addition to any other authority provided by law, the board and the committee, when designated, shall:

A. enforce and administer the provisions of the Dental Health Care Act and the Dental Amalgam Waste Reduction Act;

B. ~~[adopt, publish, file and revise, in accordance~~

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~~with the Uniform Licensing Act and~~ promulgate in accordance
with the State Rules Act, all rules as ~~[may be]~~ necessary to:

(1) regulate the examination and licensure of dentists and dental therapists and, through the committee, regulate the examination and licensure of dental hygienists;

(2) provide for the examination and certification of dental assistants by the board;

(3) provide for the regulation of dental technicians by the board;

(4) regulate the practice of dentistry, dental therapy and dental assisting and, through the committee, regulate the practice of dental hygiene; and

(5) provide for the regulation and licensure of non-dentist owners by the board;

C. adopt and use a seal;

D. administer oaths to all applicants, witnesses and others appearing before the board or the committee, as appropriate;

E. keep an accurate record of all meetings, receipts and disbursements;

F. grant, deny, review, suspend and revoke licenses and certificates to practice dentistry, dental therapy, dental assisting and, through the committee, dental hygiene and censure, reprimand, fine and place on probation and stipulation dentists, dental therapists, dental assistants and, through the

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committee, dental hygienists, in accordance with the Uniform Licensing Act for any cause stated in the Dental Health Care Act and the Dental Amalgam Waste Reduction Act;

G. grant, deny, review, suspend and revoke licenses to own dental practices and censure, reprimand, fine and place on probation and stipulation non-dentist owners, in accordance with the Uniform Licensing Act, for any cause stated in the Dental Health Care Act and the Dental Amalgam Waste Reduction Act;

H. maintain records of the name, address, license number and such other demographic data as may serve the needs of the board of licensees, together with a record of license renewals, suspensions, revocations, probations, stipulations, censures, reprimands and fines. The board shall make available composite reports of demographic data but shall limit public access to information regarding individuals to their names, addresses, license numbers and license actions or as required by statute;

I. hire and contract for services from persons as necessary to carry out the board's duties;

J. establish ad hoc committees whose members shall be appointed by the chair with the advice and consent of the board or committee and shall include at least one member of the board or committee as it deems necessary for carrying on its business;

K. have the authority to pay per diem and mileage to [~~individuals~~] persons who are appointed by the board or the committee to serve on ad hoc committees;

L. have the authority to hire or contract with investigators to investigate possible violations of the Dental Health Care Act and the Dental Amalgam Waste Reduction Act;

M. have the authority to issue investigative subpoenas prior to the issuance of a notice of contemplated action for the purpose of investigating complaints against dentists, dental therapists, dental assistants and, through the committee, dental hygienists licensed under the Dental Health Care Act and the Dental Amalgam Waste Reduction Act;

N. have the authority to sue or be sued and to retain the services of an attorney at law for counsel and representation regarding the carrying out of the board's duties;

O. have the authority to create and maintain a formulary, in consultation with the board of pharmacy, of medications that a dental therapist or dental hygienist may prescribe, administer or dispense in accordance with rules the board has promulgated; and

P. establish continuing education or continued competency requirements for dentists, dental therapists, certified dental assistants in expanded functions, dental technicians and, through the committee, dental hygienists."

SECTION 27. Section 61-5A-14 NMSA 1978 (being Laws 1994, Chapter 55, Section 14, as amended) is amended to read:

"61-5A-14. TEMPORARY LICENSURE--EXPEDITED LICENSURE.--

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A. The board or the committee may issue a temporary license to practice dentistry or dental hygiene to ~~[any]~~ an applicant who is licensed to practice dentistry or dental hygiene in another state or territory of the United States or the District of Columbia and who is otherwise qualified to practice dentistry or dental hygiene in this state. The following provisions shall apply:

~~[A.]~~ (1) the applicant shall hold a valid license in good standing in another state or territory of the United States or the District of Columbia;

~~[B.]~~ (2) the applicant shall practice dentistry or dental hygiene under the sponsorship of or in association with a licensed New Mexico dentist or dental hygienist;

~~[C.]~~ (3) the temporary license may be issued for those activities as stipulated by the board or committee in the rules of the board. It may be issued upon written application of the applicant when accompanied by such proof of qualifications as the secretary-treasurer of the board or committee, in ~~[his]~~ the secretary-treasurer's discretion, may require. Temporary licensees shall engage in only those activities specified on the temporary license for the time designated, and the temporary license shall identify the licensed New Mexico dentist or dental hygienist who will sponsor or associate with the applicant during the time the applicant practices dentistry or dental hygiene in New Mexico;

~~[D.]~~ (4) the sponsoring or associating dentist or dental hygienist shall submit an affidavit attesting to the

qualifications of the applicant and the activities the applicant will perform;

[E-] (5) the temporary license shall be issued for a period not to exceed twelve months and may be renewed upon application and payment of required fees;

[F-] (6) the application for a temporary license under this section shall be accompanied by a license fee; and

[G-] (7) the temporary licensee shall be required to comply with the Dental Health Care Act and all rules promulgated pursuant [thereto] to that act.

B. The board or committee shall issue an expedited license without examination to a dentist or dental hygienist licensed in another licensing jurisdiction if the applicant holds a license that is current and in good standing issued by the other licensing jurisdiction Hf11→~~and has practiced as a dentist or dental hygienist for at least two years immediately prior to application in New Mexico~~←Hf11. The board shall, as soon as practicable but no later than thirty days after a person files an application for a license accompanied by any required fees, process the application and issue the expedited license in accordance with Section 61-1-31.1 NMSA 1978. If the board issues an expedited license to a person whose prior licensing jurisdiction did not require examination, the board may require that person to pass an examination before applying

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for license renewal.

C. The board by rule shall determine the states and territories of the United States and the District of Columbia from which it will not accept an applicant for expedited licensure and foreign countries from which it will accept an applicant for expedited licensure. The board shall post the lists of disapproved and approved licensing jurisdictions on its website. The list of disapproved licensing jurisdictions shall include the specific reasons for disapproval. The lists shall be reviewed annually to determine if amendments to the rule are warranted."

SECTION 28. Section 61-6-5 NMSA 1978 (being Laws 1973, Chapter 361, Section 2, as amended) is amended to read:

"61-6-5. MEDICAL BOARD DUTIES AND POWERS.--The board shall:

A. enforce and administer the provisions of the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act, the Genetic Counseling Act, the Impaired Health Care Provider Act, the Polysomnography Practice Act, the Naturopathic Doctors' Practice Act and the Naprapathic Practice Act;

B. [~~adopt, publish and file~~] promulgate, in accordance with [~~the Uniform Licensing Act and~~] the State Rules Act, all rules for the implementation and enforcement of the provisions of the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act, the Genetic Counseling Act, the Impaired Health Care Provider Act, the Polysomnography Practice Act, the Naturopathic Doctors'

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Practice Act and the Naprapathic Practice Act;

C. adopt and use a seal;

D. administer oaths to all applicants, witnesses and others appearing before the board, as appropriate;

E. take testimony on matters within the board's jurisdiction;

F. keep an accurate record of all its meetings, receipts and disbursements;

G. maintain records in which the name, address and license number of all licensees shall be recorded, together with a record of all license renewals, suspensions, revocations, probations, stipulations, censures, reprimands and fines;

H. [~~grant~~] discipline licensees or deny, review, suspend and revoke licenses to practice medicine and censure, reprimand, fine and place on probation and stipulation licensees and applicants in accordance with the Uniform Licensing Act for any cause stated in the [~~Medical Practice Act, the Impaired Health Care Provider Act, the Naturopathic Doctors' Practice Act and the Naprapathic Practice Act]~~ law that the board is charged with enforcing;

I. hire staff and administrators as necessary to carry out the provisions of the Medical Practice Act;

J. have the authority to hire or contract with investigators to investigate possible violations of the Medical

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Practice Act;

K. have the authority to hire a competent attorney to give advice and counsel in regard to any matter connected with the duties of the board, to represent the board in any legal proceedings and to aid in the enforcement of the laws in relation to ~~[the medical]~~ a health care profession or occupation over which the board has authority and to fix the compensation to be paid to such attorney; provided, however, that such attorney shall be compensated from the funds of the board;

L. establish continuing education requirements for licensed practitioners over which the board has authority;

M. establish committees as it deems necessary for carrying on its business;

N. hire or contract with a licensed physician to serve as medical director and fulfill specified duties of the secretary-treasurer;

O. establish and maintain rules related to the management of pain based on review of national standards for pain management; and

P. have the authority to waive licensure fees for the purpose of the recruitment and retention of health care practitioners over which the board has authority."

SECTION 29. A new Section 61-6C-1 NMSA 1978 is enacted to read:

"61-6C-1. [NEW MATERIAL] SHORT TITLE.--Chapter 61, Article 6C NMSA 1978 may be cited as the "Physician Assistant Act"."

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SECTION 30. Section 61-6-7.1 NMSA 1978 (being Laws 1989, Chapter 9, Section 2) is recompiled as Section 61-6C-2 NMSA 1978 and is amended to read:

"61-6C-2. DEFINITIONS.--As used in the Physician Assistant Act:

A. "administer" means to apply a prepackaged drug directly to the body of a patient by any means;

B. "board" means the New Mexico medical board;

~~[B-]~~ C. "dispense" means to deliver a drug directly to a patient and includes the compounding, labeling and repackaging of a drug from a bulk or original container;

~~[G-]~~ D. "distribute" means to administer or supply directly to a patient under the direct care of the distributing physician assistant one or more doses of drugs prepackaged by a licensed pharmacist and excludes the compounding or repackaging from a bulk or original container; ~~and~~

E. "licensed physician" means a medical or osteopathic physician; and

~~[D-]~~ F. "prescribe" means to issue an order individually for the person for whom prescribed, either directly from the prescriber to the pharmacist or indirectly by means of a written order signed by the prescriber, bearing the name and address of the prescriber, ~~his~~ the prescriber's license classification, the name and address of the patient, the name of the drug prescribed, directions for use and the

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date of issue."

SECTION 31. A new section of the Physician Assistant Act, Section 61-6C-3 NMSA 1978, is enacted to read:

"61-6C-3. [NEW MATERIAL] LICENSURE AS A PHYSICIAN ASSISTANT--SCOPE OF PRACTICE--BIENNIAL REGISTRATION OF SUPERVISION--LICENSE RENEWAL--FEES.--

A. The board may license as a physician assistant a qualified person who has graduated from a physician assistant program accredited by the national accrediting body as established by rule of the board in accordance with the State Rules Act and has passed a physician assistant national certifying examination as established by rule. The board may also license as a physician assistant a person who passed the physician assistant national certifying examination administered by the national commission on certification of physician assistants prior to 1986.

B. A person shall not perform, attempt to perform or hold the person's own self out as a physician assistant without first applying for and obtaining a license from the board.

C. Physician assistants may prescribe, administer, dispense and distribute dangerous drugs other than controlled substances in Schedule I of the Controlled Substances Act pursuant to rules adopted by the board after consultation with the board of pharmacy if the prescribing, administering, dispensing and distributing are done with the supervision of a licensed physician or in collaboration with a licensed physician. The distribution process shall comply with state

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laws concerning prescription packaging, labeling and recordkeeping requirements.

D. A physician assistant shall perform only the acts and duties that are within the physician assistant's scope of practice.

E. An applicant for licensure as a physician assistant shall complete application forms supplied by the board and shall pay a licensing fee as provided in Section 61-6-19 NMSA 1978.

F. A physician assistant shall biennially submit proof of current certification by the national commission on certification of physician assistants or another certifying agency designated by the board and shall renew the license and registration of supervision of the physician assistant with the board.

G. A physician assistant shall not practice medicine until the physician assistant has established a supervising or collaborating relationship with a licensed physician in accordance with rules promulgated by the board.

H. Each biennial renewal of licensure shall be accompanied by a fee as provided in Section 61-6-19 NMSA 1978."

SECTION 32. Section 61-6-7.2 NMSA 1978 (being Laws 1997, Chapter 187, Section 3, as amended) is recompiled as Section 61-6C-4 NMSA 1978 and is amended to read:

"61-6C-4. PHYSICIAN ASSISTANT--INACTIVE LICENSE.--

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A. A physician assistant license shall expire every two years on a date established by the board.

B. A physician assistant who notifies the board in writing on forms prescribed by the board may elect to place the physician assistant's license on an inactive status. A physician assistant with an inactive license shall be excused from payment of renewal fees and shall not practice as a physician assistant.

C. A physician assistant who engages in practice while the physician assistant's license is lapsed or on inactive status is practicing without a license, and this is grounds for discipline pursuant to the Physician Assistant Act and Medical Practice Act in accordance with the Uniform Licensing Act.

D. A physician assistant requesting restoration from inactive status shall pay the current renewal fee and fulfill the requirement for renewal pursuant to the Physician Assistant Act and the Medical Practice Act.

E. The board may, in its discretion, summarily suspend for nonpayment of fees the license of a physician assistant who has not renewed the physician assistant's license within ninety days of expiration.

F. A physician assistant who has not submitted an application for renewal on or before the license expiration date, but who has submitted an application for renewal within forty-five days after the license expiration date, shall be assessed a late fee.

G. A physician assistant who has not submitted an

application for renewal between forty-six and ninety days after the expiration date shall be assessed a late fee."

SECTION 33. Section 61-6-9 NMSA 1978 (being Laws 1973, Chapter 361, Section 5, as amended) is recompiled as Section 61-6C-7 NMSA 1978 and is amended to read:

"61-6C-7. PHYSICIAN ASSISTANTS--RULES.--The board may [~~adopt~~] promulgate in accordance with the State Rules Act and enforce [reasonable] those rules in accordance with the Uniform Licensing Act for:

A. education, skill and experience for licensure of a person as a physician assistant and providing forms and procedures for biennial license renewal;

B. examining and evaluating an applicant for licensure as a physician assistant as to skill, knowledge and experience of the applicant in the field of medical care;

C. establishing when and for how long physician assistants are permitted to prescribe, administer, dispense and distribute dangerous drugs other than controlled substances in Schedule I of the Controlled Substances Act pursuant to rules adopted by the board after consultation with the board of pharmacy;

D. allowing a supervising or collaborating licensed physician to temporarily delegate supervision or collaboration responsibilities for a physician assistant to another licensed physician;

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E. establishing when a physician assistant may engage in the practice of medicine in collaboration with a licensed physician; and

F. carrying out all other provisions of the Physician Assistant Act."

SECTION 34. Section 61-6-10 NMSA 1978 (being Laws 1973, Chapter 361, Section 6, as amended) is recompiled as Section 61-6C-8 NMSA 1978 and is amended to read:

"61-6C-8. SUPERVISING OR COLLABORATING LICENSED PHYSICIAN--RESPONSIBILITY.--

A. As a condition of licensure, all physician assistants practicing in New Mexico shall be supervised by a licensed physician [~~licensed pursuant to the Medical Practice Act~~]. The physician assistant shall inform the board of the name of the licensed physician under whose supervision the physician assistant will practice. All supervising physicians shall be licensed pursuant to the Medical Practice Act and [~~shall be~~] approved by the board.

B. Every licensed physician supervising a [~~licensed~~] physician assistant shall be individually responsible and liable for the performance of the acts and omissions delegated to the physician assistant the physician supervises. Nothing in this section shall be construed to relieve the physician assistant of responsibility and liability for the acts and omissions of the physician assistant. Rules promulgated in accordance with the State Rules Act pursuant to the Physician Assistant Act shall:

(1) require that a physician assistant whose

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practice is a specialty care, as defined by the board, shall be supervised by a licensed physician in accordance with requirements established by the board; and

(2) allow a physician assistant whose practice is primary care, as defined by the board, to collaborate with a licensed physician in accordance with requirements established by the board for different practice settings.

C. A physician assistant shall be supervised by or collaborate with a licensed physician in accordance with rules adopted by the board."

SECTION 35. Section 61-6-10.1 NMSA 1978 (being Laws 2001, Chapter 311, Section 1) is recompiled as Section 61-6D-1 NMSA 1978 and is amended to read:

"61-6D-1. SHORT TITLE.--~~[This act]~~ Chapter 61, Article 6D NMSA 1978 may be cited as the "Anesthesiologist Assistants Act"."

SECTION 36. Section 61-6-10.9 NMSA 1978 (being Laws 2001, Chapter 311, Section 9, as amended) is recompiled as Section 61-6D-8 NMSA 1978 and is amended to read:

"61-6D-8. RULES.--

A. The board may adopt in accordance with the State Rules Act and enforce in accordance with the Uniform Licensing Act reasonable rules:

(1) for setting qualifications of education, skill and experience for licensure of a person as an

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anesthesiologist assistant;

(2) for providing procedures and forms for licensure and annual registration;

(3) for examining and evaluating applicants for licensure as an anesthesiologist assistant regarding the required skill, knowledge and experience in developing and implementing anesthesia care plans under supervision;

(4) for allowing a supervising anesthesiologist to temporarily delegate supervisory responsibilities for an anesthesiologist assistant to another anesthesiologist;

(5) for allowing an anesthesiologist assistant to temporarily serve under the supervision of an anesthesiologist other than the supervising anesthesiologist with whom the anesthesiologist assistant is registered; and

(6) to carry out the provisions of the Anesthesiologist Assistants Act.

B. The board shall not adopt a rule allowing an anesthesiologist assistant to perform procedures outside the anesthesiologist assistant's scope of practice.

C. The board shall adopt rules:

(1) establishing requirements for anesthesiologist assistant licensing, including:

(a) completion of a graduate level training program accredited by the commission on accreditation of allied health education programs;

(b) successful completion of a certifying examination for anesthesiologist assistants

administered by the national commission for the certification of anesthesiologist assistants; and

(c) current certification by the American heart association in advanced cardiac life-support techniques;

(2) establishing minimum requirements for continuing education of not less than forty hours every two years;

(3) requiring adequate identification of the anesthesiologist assistant to patients and others;

(4) requiring the presence, except in cases of emergency, and the documentation of the presence, of the supervising anesthesiologist in the operating room during induction of a general or regional anesthetic and during emergence from a general anesthetic, the presence of the supervising anesthesiologist within the operating suite and immediate availability to the operating room at other times when the anesthetic procedure is being performed and requiring that the anesthesiologist assistant comply with the above restrictions;

(5) requiring the supervising anesthesiologist to ensure that all activities, functions, services and treatment measures are properly documented in written form by the anesthesiologist assistant. The anesthesia record shall be reviewed, countersigned and dated by the supervising

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anesthesiologist;

(6) requiring the anesthesiologist assistant to inform the supervising anesthesiologist of serious adverse events;

(7) establishing, with respect to practice outside of a university in New Mexico with a medical school, that the number of anesthesiologist assistants a supervising anesthesiologist may supervise at one time, except in emergency cases, shall not exceed three anesthesiologist assistants;

(8) establishing, with respect to practice at a university in New Mexico with a medical school, that an anesthesiologist shall not supervise, except in emergency cases, more than four anesthesia providers if at least one anesthesia provider is an anesthesiologist assistant; and

(9) within twelve months of the date on which the Anesthesiologist Assistants Act becomes effective, providing for enhanced supervision at the commencement of an anesthesiologist assistant's practice."

SECTION 37. Section 61-8-6 NMSA 1978 (being Laws 1977, Chapter 221, Section 6, as amended) is amended to read:

"61-8-6. BOARD ORGANIZATION--MEETINGS--COMPENSATION--
POWERS AND DUTIES.--

A. The board shall hold a regular meeting at least annually and shall elect annually a [~~chairman~~] chair, vice [~~chairman~~] chair and secretary-treasurer from its membership, each of whom shall serve until [~~his~~] a successor is selected and qualified.

B. The board shall hold a minimum of one

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examination for licensure each year in the month of June or July at a place and at a time designated by the board. Notice of the examination shall be given to all applicants at least thirty days prior to the date of the examination.

C. Special meetings may be called by the [~~chairman~~] chair and shall be called upon the written request of any three board members. Notice of all meetings shall be made in conformance with the Open Meetings Act.

D. Members of the board may be reimbursed as provided in the Per Diem and Mileage Act, but shall receive no other compensation, perquisite or allowance.

E. The board shall:

(1) administer and enforce the provisions of the Podiatry Act;

(2) [~~adopt, publish and file~~] promulgate, in accordance with [~~the Uniform Licensing Act and~~] the State Rules Act, all rules for the implementation and enforcement of the provisions of the Podiatry Act;

(3) adopt and use a seal;

(4) conduct hearings, administer oaths and take testimony on [~~any~~] matters within the board's jurisdiction;

(5) keep an accurate record of its meetings, receipts and disbursements;

(6) keep a record of licensure examinations

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held, together with the names and addresses of persons taking the examinations and the examination results. Within forty-five days after ~~any~~ an examination, the board shall give written notice to each applicant examined of the results of the examination as to the respective applicant;

(7) certify as passing each applicant who obtains a passing score, as defined by board rule, on examinations administered or approved by the board;

(8) keep records of registration in which the name, address and license number of licensed podiatrists are recorded, together with a record of license renewals, suspensions and revocations;

(9) grant, deny, renew, suspend or revoke licenses to practice podiatry or take other actions provided in Section 61-1-3 NMSA 1978 in accordance with the provisions of the Uniform Licensing Act for any cause stated in the Podiatry Act;

(10) ~~adopt and~~ promulgate rules setting standards of preliminary and professional qualifications for the practice of podiatry;

(11) ~~adopt and~~ promulgate rules and prepare and administer examinations for the licensure and regulation of podiatric assistants as are necessary to protect the public. The rules shall include definitions and limitations on the practice of podiatric assistants, qualifications for applicants for licensure, an initial license fee in an amount not to exceed two hundred fifty dollars (\$250) and a renewal fee not to exceed one hundred dollars (\$100) per year, provisions for

the regulation of podiatric assistants and provisions for the suspension or revocation of licenses;

(12) determine by rule all qualifications and requirements for applicants seeking licensure as podiatrists or podiatric assistants; and

(13) ~~adopt~~ promulgate rules and prepare and administer examinations for applicants seeking licensure as foot and ankle radiation technologists."

SECTION 38. Section 61-8-8 NMSA 1978 (being Laws 1977, Chapter 221, Section 8, as amended) is amended to read:

"61-8-8. QUALIFICATIONS FOR LICENSURE AS A PODIATRIST.--

A. Each applicant for licensure as a podiatrist shall furnish evidence satisfactory to the board that the applicant:

(1) has reached the age of majority;

~~[(2) is of good moral character;~~

~~(3)]~~ (2) has graduated and been awarded a doctor of podiatric medicine degree from a college of podiatric medicine accredited by the American podiatric medical association council on podiatric medical education; and

~~[(4)]~~ (3) has completed, at a minimum, a one-year residency program at a hospital accredited by the American podiatric medical association council on education.

B. Each applicant shall file ~~[his]~~ an application under oath on forms supplied by the board and shall pay the

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required fees.

C. An applicant for licensure by examination shall submit evidence to the board that ~~[he]~~ the applicant has ~~[successfully]~~ passed the examinations administered by the national board of podiatry examiners for students graduating from colleges of podiatry and shall furnish the board an official transcript and take ~~[such]~~ clinical and written examinations as the board deems necessary. The examinations shall be in English and the subjects covered by the examinations shall be determined by the board and taken from subjects taught in accredited colleges of podiatric medicine. No applicant for licensure by examination shall be licensed who has not received a passing score on all board-approved or board-administered examinations.

D. A podiatrist ~~[duly]~~ licensed in another state may, on a temporary basis, consult, advise or cooperate in patient treatment with a podiatrist licensed in New Mexico, subject to rules ~~[adopted and]~~ promulgated by the board."

SECTION 39. Section 61-8-9 NMSA 1978 (being Laws 1977, Chapter 221, Section 9, as amended) is amended to read:

"61-8-9. EXPEDITED LICENSURE BY RECIPROCITY.--

A. An applicant for expedited licensure by reciprocity shall meet the qualifications set forth in Section 61-8-8 NMSA 1978, shall file ~~[his]~~ an application under oath on forms supplied by the board that conform to board rules on reciprocity and ~~[shall]~~ furnish proof satisfactory to the board of ~~[his]~~ having been licensed by national examination in another ~~[state that had qualifications equal to or exceeding~~

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~~those of this state on the date of his original licensure]~~
licensing jurisdiction. In addition, each applicant for
~~[registration pursuant to the provisions for]~~ licensure by
reciprocity shall furnish the board:

(1) an affidavit from ~~[his]~~ the applicant's
state board showing ~~[current registration]~~ a valid,
unrestricted license and the fact that ~~[he]~~ the applicant has
been licensed to practice podiatry and ~~[that he]~~ has practiced
podiatry for at least five consecutive years immediately
preceding the filing of ~~[his]~~ the application for reciprocal
~~[privilege The applicant shall also complete and pass those~~
~~supplemental examinations as the board deems necessary if~~
~~required by board rule]~~ licensure and is in good standing with
the other licencing jurisdiction; and

(2) pay required fees.

B. The board shall, as soon as practicable but no
later than thirty days after an out-of-state licensee files an
application for licensure by reciprocity, process the
application and issue the license in accordance with Section
61-1-31.1 NMSA 1978.

C. The board shall determine the states and
territories of the United States and the District of Columbia
from which it will not accept an applicant for expedited
licensure and the foreign countries from which it will accept
an applicant for expedited licensure. The board shall post the

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list of disapproved and approved licensing jurisdictions on its website. The list of disapproved licensing jurisdictions shall include the specific reasons for disapproval. The lists shall be reviewed annually to determine if amendments to the rule are warranted."

SECTION 40. Section 61-9-6 NMSA 1978 (being Laws 1963, Chapter 92, Section 5, as amended) is amended to read:

"61-9-6. BOARD--MEETING--POWERS.--

A. The board shall, annually in the month of July, hold a meeting and elect from its membership a chair, vice chair and secretary-treasurer. The board shall meet at other times as it deems necessary or advisable or as deemed necessary and advisable by the chair or a majority of its members or the governor. Reasonable notice of all meetings shall be given in the manner prescribed by the board. A majority of the board constitutes a quorum at a meeting or hearing.

B. The board [~~is authorized to~~] may:

(1) [~~adopt and from time to time revise such~~] promulgate rules [~~not inconsistent with the law as may be necessary~~] in accordance with the State Rules Act to carry into effect the provisions of the Professional Psychologist Act. The rules shall include a code of conduct for psychologists and psychologist associates in the state;

(2) adopt a seal, and the administrator shall have the care and custody of the seal;

(3) examine for, approve, deny, revoke, suspend and renew the licensure of psychologist and psychologist associate applicants as provided in the

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Professional Psychologist Act in accordance with the Uniform Licensing Act;

(4) conduct hearings in accordance with the Uniform Licensing Act upon complaints concerning the disciplining of a psychologist or psychologist associate; and

(5) cause the prosecution and enjoinder of persons violating the Professional Psychologist Act and incur related necessary expenses.

C. Within sixty days after the close of each fiscal year, the board shall submit a written report, reviewed and signed by the board members, to the governor concerning the work of the board during the preceding fiscal year. The report shall include the names of psychologists and psychologist associates to whom licenses have been granted; cases heard and decisions rendered in relation to the work of the board; the recommendations of the board as to future policies, including the appropriate application of technology for supervision; and an account of all money received and expended by the board."

SECTION 41. Section 61-9-10 NMSA 1978 (being Laws 1963, Chapter 92, Section 9, as amended) is amended to read:

"61-9-10. LICENSURE OF PSYCHOLOGISTS FROM OTHER AREAS--
EXPEDITED LICENSURE.--

~~[Subject to the provisions of]~~ A. Except as provided in Section 61-9-10.1 NMSA 1978 for temporary or other provisional licensure that is not an expedited license, upon

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application accompanied by a fee as required by the Professional Psychologist Act, the board shall, without written or oral examination, issue [a] an expedited license to a person who furnishes, upon a form and in such manner as the board prescribes, evidence to the board that the person has been licensed or certified as a psychologist or prescribing psychologist by another [~~state a territorial possession of the United States, the District of Columbia or another country~~] licensing jurisdiction for two years. An applicant seeking a license shall demonstrate to the board that the training and education received by the applicant is equivalent to the requirements for a doctoral degree in psychology as provided in the Professional Psychologist Act; that the applicant holds a valid, unrestricted license and is in good standing with the licensing board of that licensing jurisdiction; and the applicant has practiced psychology for at least two years immediately prior to application in New Mexico.

B. The board shall, as soon as practicable but not later than thirty days after an out-of-state licensee files an application for an expedited license, process the application and issue an expedited license in accordance with Section 61-1-31.1 NMSA 1978.

C. If the board issues an expedited license to a person whose prior licensing jurisdiction did not require examination, the board may require the person to pass an examination before license renewal.

D. The board by rule shall determine the states and territories of the United States and the District of Columbia

from which it will not accept an applicant for expedited licensure and shall determine any foreign countries from which it will accept an applicant for expedited licensure. The board shall post the lists of disapproved and approved licensing jurisdictions on its website. The list of disapproved licensing jurisdictions shall include the specific reasons for disapproval. The rule shall be reviewed annually to determine if amendments to the rule are warranted."

SECTION 42. Section 61-9-13 NMSA 1978 (being Laws 1963, Chapter 92, Section 12, as amended) is amended to read:

"61-9-13. DENIAL, REVOCATION OR SUSPENSION OF LICENSE.--

A. In accordance with the Uniform Licensing Act, the board, by an affirmative vote of at least five of its eight members, shall withhold, deny, revoke or suspend a psychologist or psychologist associate license issued or applied for in accordance with the provisions of the Professional Psychologist Act or otherwise discipline a [~~licensed~~] psychologist or psychologist associate upon proof that the applicant, [~~licensed~~] psychologist or psychologist associate:

(1) has been convicted of a felony or an offense involving moral turpitude, the record of conviction being conclusive evidence thereof;

(2) is using a drug, substance or alcoholic beverage to an extent or in a manner dangerous to the psychologist or psychologist associate, any other person or the

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public or to an extent that the use impairs the psychologist's or psychologist associate's ability to perform the work of a professional psychologist or psychologist associate with safety to the public;

(3) has impersonated another person holding a psychologist or psychologist associate license or allowed another person to use the psychologist's or psychologist associate's license;

(4) has used fraud or deception in applying for a license or in taking an examination provided for in the Professional Psychologist Act;

(5) has accepted commissions or rebates or other forms of remuneration for referring clients to other professional persons;

(6) has allowed the psychologist's or psychologist associate's name or license issued under the Professional Psychologist Act to be used in connection with a person who performs psychological services outside of the area of that person's training, experience or competence;

(7) is legally adjudicated insane or mentally incompetent, the record of such adjudication being conclusive evidence thereof;

(8) has willfully or negligently violated the provisions of the Professional Psychologist Act;

(9) has violated any code of conduct adopted by the board;

(10) has been disciplined by another state for acts similar to acts described in this subsection, and a

certified copy of the record of discipline of the state imposing the discipline is conclusive evidence;

(11) is incompetent to practice psychology;

(12) has failed to furnish to the board or its representative information requested by the board;

(13) has abandoned patients or clients;

(14) has failed to report to the board adverse action taken against the licensee by:

(a) another licensing jurisdiction;

(b) a professional psychologist association of which the psychologist or psychologist associate is or has been a member;

(c) a government agency; or

(d) a court for actions or conduct similar to acts or conduct that would constitute grounds for action as described in this subsection;

(15) has failed to report to the board surrender of a license or other authorization to practice psychology in another jurisdiction or surrender of membership on a health care staff or in a professional association following a disciplinary investigation, or in lieu of or while under a disciplinary investigation, by any of those authorities for acts or conduct that would constitute grounds for action as defined in this subsection;

(16) has failed to adequately supervise a

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psychologist associate or a licensed psychologist holding a conditional prescription certificate;

(17) has employed abusive billing practices;

(18) has aided or abetted the practice of psychology by a person not licensed by the board; or

(19) uses conversion therapy on a minor.

B. A person who has been refused a license or whose license has been restricted or suspended under the provisions of this section may reapply for licensure after more than two years have elapsed from the date the restriction or suspension is terminated.

C. As used in this section:

(1) "conversion therapy" means any practice or treatment that seeks to change a person's sexual orientation or gender identity, including any effort to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward persons of the same sex.

"Conversion therapy" does not mean:

(a) counseling or mental health services that provide acceptance, support and understanding of a person without seeking to change gender identity or sexual orientation; or

(b) mental health services that facilitate a person's coping, social support, sexual orientation or gender identity exploration and development, including an intervention to prevent or address unlawful conduct or unsafe sexual practices, without seeking to change gender identity or sexual orientation;

(2) "gender identity" means a person's self-perception, or perception of that person by another, of the person's identity as a male or female based upon the person's appearance, behavior or physical characteristics that are in accord with or opposed to the person's physical anatomy, chromosomal sex or sex at birth;

(3) "minor" means a person under eighteen years of age; and

(4) "sexual orientation" means heterosexuality, homosexuality or bisexuality, whether actual or perceived."

SECTION 43. Section 61-9A-3 NMSA 1978 (being Laws 1993, Chapter 49, Section 3, as amended) is amended to read:

"61-9A-3. DEFINITIONS.--As used in the Counseling and Therapy Practice Act:

A. "accredited institution" means a university or college accredited by an accrediting agency of institutions of higher education;

B. "appraisal" means selecting, administering, scoring and interpreting instruments designed to assess a person's aptitudes, attitudes, abilities, achievements, interests, personal characteristics and current emotional or mental state by appropriately educated, trained and experienced clinicians and the use of nonstandardized methods and techniques for understanding human behavior in relation to

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coping with, adapting to or changing life situations of a physical, mental or emotional nature; "appraisal" shall not be construed to permit the performance of any act that a counselor or a therapist is not educated, trained and licensed to perform;

C. "appropriate clinical supervision" means, as defined by rule, supervision provided by a licensed:

- (1) professional clinical mental health counselor;
- (2) marriage and family therapist;
- (3) professional art therapist;
- (4) psychiatrist;
- (5) clinical psychologist;
- (6) clinical nurse specialist in psychiatry;
- (7) independent social worker with two years of mental health and supervised clinical experience; or
- (8) alcohol and drug abuse counselor [~~A licensed alcohol and drug abuse counselor shall have completed~~] with three years of work experience in the field of alcohol and drug abuse prior to providing supervision;

D. "appropriate clinical supervisor for substance abuse associate" means a person who has education and experience specific to the career track of the associate and has training in transmitting knowledge, skills and attitudes through a relational process that includes direct oversight of the clinical work;

E. "approved clinical supervisor" means a person who is a licensed professional clinical mental health

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counselor, licensed marriage and family therapist, licensed professional art therapist, licensed psychiatrist, licensed clinical psychologist, clinical nurse specialist in psychiatry or licensed independent social worker and provides supervision to a licensed mental health counselor or therapist;

F. "art therapy" means the rendering of art therapy principles whereby communication is facilitated through therapeutic counseling and art media. This involves the application of the principles of human development and psychological theories, which are implemented in the full spectrum of models of assessment and treatment, including psychodynamics and cognitive, interpersonal and other therapeutic means to individuals, couples, families, groups and communities for the promotion of optimal mental health;

G. "board" means the counseling and therapy practice board;

H. "client contact hours" means the face-to-face time spent with a client to appraise, assess, evaluate, diagnose, treat psychopathology and provide counseling services;

I. "clinical counseling" means the rendering of counseling services involving the application of principles of psychotherapy, human development, learning theory, diagnosis, treatment and the etiology of mental illness and dysfunctional behavior to individuals, couples, families or groups for the

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purpose of assessing and treating psychopathology and promoting optimal mental health;

J. "consultation" means the voluntary, nonsupervisory relationship between professionals or other pertinent persons, in application of scientific counseling, guidance and human development principles and procedures to provide assistance in understanding and resolving a current or potential problem that the consultee may have in relation to a third party, be it an individual, group, family or organization;

K. "counselor training and education" means a process that prepares counselors and therapists in both didactic and clinical aspects of counseling;

L. "course" means an integrated, organized course of study, which encompasses a minimum of one school semester or equivalent hours;

M. "counseling" means the application of scientific principles and procedures in therapeutic counseling, guidance and human development to provide assistance in understanding and solving a mental, emotional, physical, social, moral, educational, spiritual or career development and adjustment problem that a client may have;

N. "counseling-related field" as defined by rule, means a degree in guidance counseling, mental health-community counseling or agency counseling; psychology, clinical psychology or counseling psychology; human services; family services; human and family studies; art therapy; or art education with an emphasis in art therapy;

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~~[O.] "defined by rule" means rules published by the board to establish criteria, standards and procedures relevant to application, licensing, administration and enforcement of the Counseling and Therapy Practice Act;~~

P.] O. "department" means the regulation and licensing department or the division of the department designated to administer the counseling and therapy practice board;

~~[Q.]~~ P. "diagnosis and treatment planning" means assessing, analyzing and providing diagnostic descriptions of mental, emotional or behavioral conditions; exploring possible solutions; and developing and implementing a treatment plan for mental, emotional and psychosocial adjustment or development. "Diagnosis and treatment planning" shall not be construed to permit the performance of any act that counselors or therapists are not educated, trained and licensed to perform;

~~[R.]~~ Q. "evaluation" means the act of making informed decisions based on the use and analysis of pertinent data;

~~[S.]~~ R. "internship" means a distinctly defined, pre-graduate, supervised clinical experience in which the student refines, enhances and integrates professional knowledge with basic counselor or therapist skills appropriate to the student's program and preparation for postgraduate professional placement;

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[F.] S. "licensure" means the process by which a state agency or government grants permission to an individual to engage in a given profession and to use the designated title of that profession after the applicant has attained the minimal degree of competency necessary to ensure that the public health, safety and welfare are reasonably well protected;

[U.] T. "marriage and family therapy" means the assessment, diagnosis and treatment of nervous and mental disorders, whether cognitive, affective or behavioral, within the context of marriage and family systems;

[V.] U. "mental disorder" means any of several conditions or disorders that meet the diagnostic criteria contained in the diagnostic and statistical manual of the American psychiatric association or the world health organization's international classification of mental disorders;

[W.] V. "practicum" means a distinctly defined, supervised clinical experience in which the student develops basic counselor or therapist skills and integrates professional knowledge, which practicum is completed prior to or concurrent with an internship;

[X.] W. "program" means a structured sequence of curricular and clinical experiences housed within an academic unit;

[Y.] X. "referral" means evaluating and identifying the needs of a client to determine the advisability of referrals to other specialists, advising the client of such judgments and communicating as requested or deemed appropriate

to such referral sources;

[Z-] Y. "research" means a systematic effort to collect, analyze and interpret quantitative or qualitative data that describe how social characteristics, behavior, emotions, cognition, disabilities, mental disorders and interpersonal transactions among individuals, couples, families and organizations interact;

[AA-] Z. "standard" means a minimal criterion that must be met; and

[BB-] AA. "substance abuse-related field" means a degree in guidance counseling, mental health-community counseling, agency counseling, psychology, clinical psychology, counseling psychology, human services, family services, human and family studies, social work, art therapy or art education with appropriate clinical background and two hundred seventy-six clock hours in education or training in alcohol and drug abuse counseling."

SECTION 44. Section 61-9A-22 NMSA 1978 (being Laws 1993, Chapter 49, Section 22, as amended) is amended to read:

"61-9A-22. EXPEDITED LICENSURE BY CREDENTIALS.--

A. The board shall issue [a] an expedited license in the same licensure level to a person who:

(1) files a completed application accompanied by the required fees;

(2) submits evidence that the applicant holds

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~~[and has held for a minimum of two years a current]~~ a valid, unrestricted license in a counseling-related field issued by ~~[the appropriate examining board under the law of any other state or territory of the United States, the District of Columbia or any foreign nation]~~ another licensing jurisdiction;

(3) is in good standing with that licensing jurisdiction with no disciplinary action pending or brought against the applicant within the past two years; ~~[and]~~

(4) has practiced in New Mexico for at least two years immediately prior to application; and

~~[4)]~~ (5) possesses a master's or doctoral degree in counseling or a counseling-related field from an accredited institution.

B. As soon as practicable but no later than thirty days after an out-of-state licensee files an application for a license, the board shall process the application and issue the expedited license in accordance with Section 61-1-31.1 NMSA 1978.

C. If the board issues an expedited license to a person whose prior licensing jurisdiction did not require examination, the board may require that person to pass the required examination before applying for license renewal.

D. The board by rule shall determine the states and territories of the United States and the District of Columbia from which it will not accept an applicant for expedited licensure and determine any foreign countries from which it will accept an applicant for expedited licensure. The board shall post the lists of disapproved and approved licensing

jurisdictions on its website. The list of disapproved licensing jurisdictions shall include the specific reasons for disapproval. The lists shall be reviewed annually to determine if amendments to the rule are warranted.

[B-] E. Applicants who do not meet the licensure by credential requirements must meet the current licensure requirements for a regular license."

SECTION 45. Section 61-11-6 NMSA 1978 (being Laws 1969, Chapter 29, Section 5, as amended) is amended to read:

"61-11-6. POWERS AND DUTIES OF BOARD.--

A. The board shall:

(1) [~~adopt, amend or repeal rules and regulations necessary~~] promulgate rules in accordance with the provisions of the State Rules Act to carry out the provisions of the Pharmacy Act in accordance with the provisions of the Uniform Licensing Act;

(2) provide for examinations of applicants for licensure as pharmacists;

(3) provide for the issuance and renewal of licenses for pharmacists;

(4) require and establish criteria for continuing education as a condition of renewal of licensure for pharmacists;

(5) provide for the issuance and renewal of licenses for pharmacist interns and for their training,

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supervision and discipline;

(6) provide for the licensing of retail pharmacies, nonresident pharmacies, wholesale drug distributors, drug manufacturers, hospital pharmacies, nursing home drug facilities, industrial and public health clinics and all places where dangerous drugs are stored, distributed, dispensed or administered and provide for the inspection of the facilities and activities;

(7) enforce the provisions of all laws of the state pertaining to the practice of pharmacy and the manufacture, production, sale or distribution of drugs or cosmetics and their standards of strength and purity;

(8) conduct hearings upon charges relating to the discipline of a registrant or licensee or the denial, suspension or revocation of a registration or a license in accordance with the Uniform Licensing Act;

(9) cause the prosecution of any person violating the Pharmacy Act, the New Mexico Drug, Device and Cosmetic Act or the Controlled Substances Act;

(10) keep a record of all proceedings of the board;

(11) make an annual report to the governor;

(12) appoint and employ, in the board's discretion, a qualified person who is not a member of the board to serve as executive director and define the executive director's duties and responsibilities; except that the power to deny, revoke or suspend any license or registration authorized by the Pharmacy Act shall not be delegated by the

board;

(13) appoint and employ inspectors necessary to enforce the provisions of all acts under the administration of the board, which inspectors shall be pharmacists and have all the powers and duties of peace officers;

(14) provide for other qualified employees necessary to carry out the provisions of the Pharmacy Act;

(15) have the authority to employ a competent attorney to give advice and counsel in regard to any matter connected with the duties of the board, to represent the board in any legal proceedings and to aid in the enforcement of the laws in relation to the pharmacy profession and to fix the compensation to be paid to the attorney; provided, however, that the attorney shall be compensated from the money of the board, including that provided for in Section 61-11-19 NMSA 1978;

(16) register and regulate qualifications, training and permissible activities of pharmacy technicians;

(17) provide a registry of all persons licensed as pharmacists or pharmacist interns in the state;

(18) [~~adopt~~] promulgate rules [~~and regulations~~] that prescribe the activities and duties of pharmacy owners and pharmacists in the provision of pharmaceutical care, emergency prescription dispensing, drug regimen review and patient counseling in each practice setting;

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(19) [~~adopt~~] promulgate, after approval by the New Mexico medical board [~~of medical examiners~~] and the board of nursing, rules and protocols for the prescribing of dangerous drug therapy, including vaccines and immunizations, and the appropriate notification of the primary or appropriate physician of the person receiving the dangerous drug therapy; and

(20) have the authority to authorize emergency prescription dispensing.

B. The board may:

(1) delegate its authority to the executive director to issue temporary licenses as provided in Section 61-11-14 NMSA 1978;

(2) provide by [~~regulation~~] rule for the electronic transmission of prescriptions; and

(3) delegate its authority to the executive director to authorize emergency prescription dispensing procedures during civil or public health emergencies."

SECTION 46. Section 61-12A-9 NMSA 1978 (being Laws 1996, Chapter 55, Section 9, as amended) is amended to read:

"61-12A-9. BOARD--POWERS AND DUTIES.--

A. The board shall:

(1) [~~adopt, file, amend or repeal~~] promulgate rules [~~and regulations~~] in accordance with the [~~Uniform Licensing~~] State Rules Act to carry out the provisions of the Occupational Therapy Act;

(2) use funds [~~for the purpose of meeting~~] to meet the necessary expenses incurred in carrying out the

provisions of the Occupational Therapy Act;

(3) adopt a code of ethics;

(4) enforce the provisions of the Occupational Therapy Act to protect the public by conducting hearings on charges relating to the discipline of licensees, including the denial, suspension or revocation of a license in accordance with the Uniform Licensing Act;

(5) establish and collect fees;

(6) provide for examination for and issuance, renewal and reinstatement of licenses;

(7) establish, impose, ~~and~~ collect and remit fines for violations of the Occupational Therapy Act to the current school fund;

(8) appoint a registrar to keep records and minutes necessary to carry out the functions of the board; and

(9) obtain the legal assistance of the attorney general.

B. The board may:

(1) issue investigative subpoenas for the purpose of investigating complaints against licensees prior to the issuance of a notice of contemplated action;

(2) hire or contract with an investigator to investigate complaints that have been filed with the board.

The board shall set the compensation of the investigator to be paid from the funds of the board;

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- (3) inspect establishments; and
- (4) designate hearing officers."

SECTION 47. Section 61-12A-14 NMSA 1978 (being Laws 1996, Chapter 55, Section 14, as amended) is amended to read:

"61-12A-14. EXPEDITED LICENSURE BY ENDORSEMENT.-- [~~Upon verification~~]

A. The board [~~may~~] shall grant a license to an applicant who presents a [~~current~~] valid, unrestricted license [~~in good standing~~] as an occupational therapist or an occupational therapy assistant in another [~~state the District of Columbia or a territory of the United States that meets the requirements of Section 61-12A-11 NMSA 1978~~] licensing jurisdiction and is in good standing with the licensing board of that licensing jurisdiction Hf11→and has practiced occupational therapy or occupational therapy assisting for at least two years immediately prior to application in New Mexico←Hf11. The board shall, as soon as practicable but no later than thirty days after an out-of-state licensee files an application for an expedited license accompanied by required fees, process the application and issue the expedited license in accordance with Section 61-1-31.1 NMSA 1978.

B. If the out-of-state licensee was licensed in a jurisdiction that did not require passage of the national examination for certification in occupational therapy, the board may require the licensee to pass that examination to continue to be licensed in New Mexico.

C. The board shall determine the other states and territories of the United States and the District of Columbia

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from which it will not accept applicants for expedited licensure and the foreign countries from which it will accept applicants for expedited licensure. The board shall post the list of disapproved and approved licensing jurisdictions on its website. The list of disapproved licensing jurisdictions shall include the specific reasons for disapproval. The lists shall be reviewed annually to determine if amendments to the rule are warranted."

SECTION 48. Section 61-12B-6 NMSA 1978 (being Laws 1984, Chapter 103, Section 6, as amended) is amended to read:

"61-12B-6. DEPARTMENT--DUTIES AND POWERS.--

A. The department, in consultation with the board, shall:

(1) evaluate the qualifications of applicants and review the required examination results of applicants. The department may recognize the entry level examination written by the national board for respiratory care or a successor board;

(2) promulgate rules ~~[as may be necessary]~~ in accordance with the State Rules Act to implement the provisions of the Respiratory Care Act;

(3) issue and renew licenses and temporary permits to qualified applicants who meet the requirements of the Respiratory Care Act; and

(4) administer, coordinate and enforce the provisions of the Respiratory Care Act and investigate persons

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engaging in practices that may violate the provisions of that act in accordance with the Uniform Licensing Act.

B. The department, in consultation with the board, may:

(1) conduct examinations of respiratory care practitioner applicants as required by rules of the department;

(2) reprimand, fine, deny, suspend or revoke a license or temporary permit to practice respiratory care as provided in the Respiratory Care Act in accordance with the provisions of the Uniform Licensing Act;

(3) for the purpose of investigating complaints against applicants and licensees, issue investigative subpoenas prior to the issuance of a notice of contemplated action as set forth in the Uniform Licensing Act;

(4) enforce and administer the provisions of the Impaired Health Care Provider Act and promulgate rules ~~[pursuant to]~~ to implement the provisions of that act as it relates to respiratory care practitioners;

(5) promulgate rules ~~[or]~~, including disciplinary guidelines, relating to impaired practitioners;

(6) promulgate rules to allow the interstate transport of patients; and

(7) promulgate rules to determine and regulate the scope and qualifications for expanded practice for respiratory care practitioners."

SECTION 49. Section 61-12B-7 NMSA 1978 (being Laws 1984, Chapter 103, Section 7, as amended) is amended to read:

"61-12B-7. LICENSING BY TRAINING AND EXAMINATION.--A

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person desiring to become licensed as a respiratory care practitioner shall make application to the department on a written form and in such manner as the department prescribes, pay all required application fees and certify and furnish evidence to the department that the applicant:

A. has successfully completed a training program as defined in the Respiratory Care Act and set forth by rules of the department;

B. has passed an entry level examination, as specified by rules of the department, for respiratory care practitioners administered by the national board for respiratory care or a successor board; and

~~C. is of good moral character; and~~

~~D.]~~ C. has successfully completed other training or education programs and passed other examinations as set forth by rules of the department."

SECTION 50. Section 61-12B-8 NMSA 1978 (being Laws 1984, Chapter 103, Section 8, as amended) is amended to read:

"61-12B-8. EXPEDITED LICENSING WITHOUT TRAINING AND EXAMINATION.--

A. The department shall waive the education and examination requirements for an applicant who presents proof that ~~[he is currently licensed in good standing in a jurisdiction that has standards for licensure that are at least equal to those for licensure in New Mexico as required by the~~

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~~Respiratory Care Act]~~ the applicant holds a valid, unrestricted license in another licensing jurisdiction Hf11→,←Hf11 Hf11→and←Hf11 is in good standing with that licensing jurisdiction Hf11→.←Hf11 Hf11→and has practiced as a respiratory therapy practitioner for at least two years immediately prior to application in New Mexico.←Hf11

B. The department shall, as soon as practicable but no later than thirty days after an out-of-state licensee files an application paid the required fees, process the application and issue the expedited license in accordance Section 61-1-31.1 NMSA 1978.

C. The department shall determine the states and territories of the United States and the District of Columbia from which it will not accept applicants for expedited licensure and the foreign countries from which it will accept applicants for expedited licensure. The department shall post the lists of disapproved and approved licensing jurisdictions on its website. The list of disapproved licensing jurisdictions shall include the specific reasons for disapproval. The lists shall be reviewed annually to determine if amendments to the rule are warranted."

SECTION 51. Section 61-12C-16 NMSA 1978 (being Laws 1991, Chapter 147, Section 16, as amended) is amended to read:

"61-12C-16. EXPEDITED LICENSURE BY CREDENTIALS.--~~[After successful completion of a jurisprudence examination]~~

A. The board [may] shall license an out-of-state applicant [provided that he] in accordance with Section 61-1-31.1 NMSA 1978 if the applicant possesses a valid,

unrestricted license or registration to practice massage therapy [issued by the appropriate examining board under the laws of any other state or territory of the United States, the District of Columbia or any foreign nation and has met educational and examination requirements equal to or exceeding those established pursuant to the Massage Therapy Practice Act] in another licensing jurisdiction Hf11→, ~~has practiced massage therapy for at least two years immediately prior to application in New Mexico~~←Hf11 and pays required fees. As soon as practicable but no later than thirty days after a person files an application for an expedited license, the board shall process the application and issue the expedited license in accordance with Section 61-1-31.1 NMSA 1978.

B. If the board issues an expedited license to a person whose prior licensing jurisdiction did not require examination, the board may require the person to pass an examination before license renewal.

C. The board shall determine each year the states and territories of the United States and the District of Columbia from which it will not accept applicants for expedited licensure and determine foreign countries from which it will accept applicants for expedited licensure. The board shall post the lists of disapproved and approved licensing jurisdictions on its website. The list of disapproved licensing jurisdictions shall include the specific reasons for

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disapproval."

SECTION 52. Section 61-12D-5 NMSA 1978 (being Laws 1997, Chapter 89, Section 5, as amended) is amended to read:

"61-12D-5. POWERS AND DUTIES.--The board:

A. shall examine all applicants for licensure to practice physical therapy and issue licenses or permits to those who are duly qualified;

B. shall regulate the practice of physical therapy by interpreting and enforcing the provisions of the Physical Therapy Act [~~including taking disciplinary action~~];

C. may [~~adopt, file, amend or repeal~~] promulgate rules [~~and regulations~~] in accordance with the [~~Uniform Licensing~~] State Rules Act to carry out the provisions of the Physical Therapy Act;

D. may meet as often as it deems necessary. A majority of the members constitutes a quorum for the transaction of business. The board shall keep an official record of all its proceedings;

E. may establish requirements for assessing continuing competency;

F. may collect fees;

G. may elect such officers as it deems necessary for the operations and obligations of the board. Terms of office shall be one year;

H. shall provide for the timely orientation and training of new professional and public appointees to the board, including training in licensing and disciplinary procedures and orientation to all statutes, rules, policies and

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procedures of the board;

I. may establish ad hoc committees and pay per diem and mileage to the members;

J. may enter into contracts;

K. may deny, suspend or revoke a license or take other disciplinary action in accordance with the Uniform Licensing Act;

~~[K.]~~ L. shall report final disciplinary action taken against a physical therapist or physical therapist assistant to the national disciplinary database;

~~[L.]~~ M. shall publish at least annually final disciplinary action taken against any physical therapist or physical therapist assistant; and

~~[M.]~~ N. may prescribe the forms of license certificates, application forms and such other documents as it deems necessary to carry out the provisions of the Physical Therapy Act."

SECTION 53. Section 61-12D-10 NMSA 1978 (being Laws 1997, Chapter 89, Section 10, as amended) is amended to read:

"61-12D-10. LICENSURE--QUALIFICATIONS--~~LICENSURE FROM FOREIGN SCHOOLS--TEMPORARY LICENSES--REINSTATEMENT.~~

A. An applicant for licensure as a physical therapist shall submit a completed application and have the following minimum qualifications:

~~[(1) be of good moral character;~~

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~~(2)~~ (1) be a graduate of an accredited physical therapy program approved by the board;

~~(3)~~ (2) have successfully passed the national physical therapy examination approved by the board; and

~~(4)~~ (3) have successfully passed the state jurisprudence examination.

B. An applicant for licensure as a physical therapist who has been educated outside the United States shall submit a completed application and meet the following minimum qualifications in addition to those required in [Paragraphs ~~(1), (3) and (4) of~~] Subsection A of this section:

(1) provide satisfactory evidence that the applicant's education is substantially equivalent to the requirements of physical therapists educated in accredited educational programs in the United States, as determined by the board. If the board determines that a foreign-educated applicant's education is not substantially equivalent, it may require completion of additional course work before proceeding with the application process;

(2) provide evidence that the applicant is a graduate of a school of training that is recognized by the foreign country's own ministry of education or similar institution;

(3) provide written proof of authorization to practice as a physical therapist without limitations in the legal jurisdiction where the post-secondary institution from which the applicant has graduated is located;

(4) have the applicant's educational credentials evaluated by a board-approved credential evaluation agency; and

~~[(5) pass all approved English proficiency examinations as may be prescribed by the board if English is not the applicant's primary language; and~~

~~(6)]~~ (5) participate in an interim supervised clinical practice period as may be prescribed by the board.

C. The board may issue an interim permit to a foreign-trained applicant who satisfies the board's requirements. An interim permit shall be issued for the purpose of participating in a supervised clinical practice period.

D. If the foreign-educated physical therapist applicant is a graduate of a college accredited by the commission on accreditation in physical therapy education, the board shall waive requirements of Paragraphs (1), (2), (4) and ~~[(6)]~~ (5) of Subsection B of this section ~~[are waived]~~.

E. An applicant for licensure as a physical therapist assistant shall submit a completed application and meet the following minimum requirements:

~~[(1) be of good moral character;~~

~~(2)]~~ (1) be a graduate of an accredited physical therapist assistant program approved by the board; and

~~[(3)]~~ (2) have successfully passed the

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national physical therapy examination approved by the board
[and

~~(4) have successfully passed the state
jurisprudence examination].~~

F. An applicant for licensure as a physical therapist or physical therapist assistant shall file a written application on forms provided by the board. A nonrefundable application fee and the cost of the examination shall accompany the completed written application.

G. Applicants who fail to pass the examinations shall be subject to requirements determined by board regulations prior to being approved by the board for subsequent testing.

H. The board or its designee shall issue [a] an expedited license to a physical therapist or physical therapist assistant who has a valid unrestricted license from another United States licensing jurisdiction [~~and who meets all requirements for licensure in New Mexico~~].

I. Prior to licensure, if prescribed by the board, the board or its designee may issue a temporary nonrenewable license to a physical therapist or physical therapist assistant who has completed the education and experience requirements of the Physical Therapy Act. The temporary license shall allow the applicant to practice physical therapy under the supervision of a licensed physical therapist until a permanent license is approved that shall include passing the national physical therapy examination.

J. The board or its designee may issue a temporary

license to a physical therapist or physical therapist assistant performing physical therapy while teaching an educational seminar who has met the requirements established by regulation of the board.

K. A physical therapist or physical therapist assistant licensed under the provisions of the Physical Therapy Act shall renew the physical therapist's or physical therapist assistant's license as specified in board rules. A person who fails to renew the person's license by the date of expiration shall not practice physical therapy as a physical therapist or physical therapist assistant in New Mexico.

L. Reinstatement of a lapsed license following a renewal deadline requires payment of a renewal fee and late fee.

M. Reinstatement of a physical therapist or physical therapist assistant license that has lapsed for more than three years, without evidence of continued practice in another state pursuant to a valid unrestricted license in that state, requires reapplication and payment of fees, as specified in board rules. The board shall promulgate rules establishing the qualifications for reinstatement of a lapsed license.

N. The board may establish, by rule, activities to periodically assess continuing competence to practice physical therapy.

O. A physical therapist shall refer a patient to

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the patient's licensed health care provider if:

(1) after thirty days of initiating physical therapy intervention, the patient has not made measurable or functional improvement with respect to the primary complaints of the patient; provided that the thirty-day limit shall not apply to:

(a) treatment provided for a condition related to a chronic, neuromuscular or developmental condition for a patient previously diagnosed by a licensed health care provider as having a chronic, neuromuscular or developmental condition;

(b) services provided for health promotion, wellness, fitness or maintenance purposes; or

(c) services provided to a patient who is participating in a program pursuant to an individual education plan or individual family service plan under federal law; or

(2) at any time, the physical therapist has reason to believe the patient has symptoms or conditions requiring treatment that is beyond the scope of practice of the physical therapist.

P. As used in this section, "licensed health care provider" means:

(1) a ~~[physician]~~ medical doctor or an osteopathic physician licensed pursuant to the Medical Practice Act;

~~[(2) an osteopathic physician licensed pursuant to the Osteopathic Medicine Act;~~

~~(3)~~ (2) a chiropractic physician licensed pursuant to the Chiropractic Physician Practice Act;

~~(4)~~ (3) a podiatrist licensed pursuant to the Podiatry Act;

~~(5)~~ (4) a dentist licensed pursuant to the Dental Health Care Act;

~~(6)~~ (5) a doctor of oriental medicine licensed pursuant to the Acupuncture and Oriental Medicine Practice Act;

~~(7)~~ (6) a certified nurse practitioner licensed pursuant to the Nursing Practice Act;

~~(8)~~ (7) a certified nurse-midwife licensed pursuant to the Nursing Practice Act and registered with the public health division of the department of health as a certified nurse-midwife;

~~(9)~~ (8) a certified nurse specialist licensed pursuant to the Nursing Practice Act; or

~~(10)~~ (9) a physician assistant licensed pursuant to the Medical Practice Act."

SECTION 54. A new section of the Physical Therapy Act is enacted to read:

"[NEW MATERIAL] EXPEDITED PHYSICAL THERAPIST AND PHYSICAL THERAPIST ASSISTANT LICENSURE.--

A. The board shall issue an expedited license to a person licensed as a physical therapist or physical therapist

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assistant in another state or the District of Columbia who pays the required fees and demonstrates that the person holds a valid, unrestricted license and is in good standing with the licensing board Hf11→~~on~~←Hf11 Hf11→~~in~~←Hf11 the other licensing jurisdiction Hf11→~~and has practiced physical therapy or physical therapy assisting for at least two years immediately prior to application in New Mexico~~←Hf11. The board shall, as soon as practicable but no later than thirty days, process the application and issue the expedited license in accordance Section 61-1-31.1 NMSA 1978.

B. If the board issues an expedited license to a person whose prior licensing jurisdiction did not require examination, the board may require the person to pass an examination.

C. The board shall determine licensing jurisdictions from which it will not accept applicants for expedited licensure. The board shall post the list of disapproved licensing jurisdictions on its website, including the specific reasons for disapproval."

SECTION 55. Section 61-13-6 NMSA 1978 (being Laws 1970, Chapter 61, Section 5, as amended) is amended to read:

"61-13-6. DUTIES OF THE BOARD.--~~[It is the duty of]~~ The board [~~to~~] shall:

A. [~~formulate, adopt and regularly revise such]~~ promulgate rules [~~and regulations not inconsistent with law as may be necessary]~~ in accordance with the State Rules Act to adopt and enforce standards for licensing nursing home administrators and to carry into effect the provisions of the

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Nursing Home Administrators Act;

B. approve for licensure applicants for:

- (1) initial licensure;
- (2) annual renewal of current, active

licenses;

- (3) reciprocity;
- (4) reinstatement of revoked or suspended

licenses; and

- (5) reactivation of inactive or expired

licenses;

C. cause the prosecution or enjoinder of all persons violating the Nursing Home Administrators Act and deny, suspend or revoke licenses in accordance with the provisions of the Uniform Licensing Act;

D. submit a written annual report to the governor and the legislature detailing the actions of the board and including an accounting of all money received and expended by the board; and

E. maintain a register of licensees and a record of all applicants for licensure received by the board."

SECTION 56. Section 61-13-8 NMSA 1978 (being Laws 1970, Chapter 61, Section 7, as amended) is amended to read:

"61-13-8. LICENSURE OF NURSING HOME ADMINISTRATORS.--The board shall issue a license as a nursing home administrator to each applicant who files an application in the form and manner

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prescribed by the board, accompanied by the required fee, and who furnishes evidence, including a criminal records check satisfactory to the board that ~~[he]~~ the applicant:

~~[A. is of good moral character;~~

~~B.]~~ A. has successfully completed a course of study for a baccalaureate degree and has been awarded such degree from an accredited institution in a course of study approved by the board as being adequate preparation for nursing home administrators;

~~[C.]~~ B. demonstrates professional competence by passing an examination in nursing home administration as prepared and published by the professional examination service or such other nationally recognized examination as the board ~~[shall prescribe]~~ prescribes in its rules ~~[and regulations]~~;

~~[D.]~~ C. demonstrates knowledge of state ~~[regulations]~~ rules governing the operation of nursing homes in a manner ~~[as]~~ the board ~~[shall prescribe]~~ prescribes in its rules ~~[and regulations]~~; and

~~[E.]~~ D. has successfully completed an internship or administrator-in-training program as prescribed by the board in its rules ~~[and regulations]~~."

SECTION 57. Section 61-13-11 NMSA 1978 (being Laws 1970, Chapter 61, Section 10, as amended) is amended to read:

"61-13-11. EXPEDITED LICENSURE WITHOUT EXAMINATION.--

A. The board shall issue ~~[a nursing home administrator's]~~ an expedited license ~~[temporary or regular]~~ without examination ~~[to any person who holds a nursing home administrator's license current and in good standing in another~~

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~~jurisdiction; provided that the board finds that the standards of licensure in the other jurisdiction are at least the substantial equivalent of those prevailing in this state and that the applicant meets the qualifications of the Nursing Home Administrators Act]~~ to an out-of-state applicant in accordance with Section 61-1-31.1 NMSA 1978. The board shall issue the expedited license as soon as practicable but no later than thirty days after the person files an application with the required fees and demonstrates that the person holds a valid, unrestricted license and is in good standing with the licensing board in the other licensing jurisdiction Hf11→~~and has practiced nursing home administration for at least two years immediately prior to application in New Mexico~~←Hf11. If the board issues an expedited license to a person whose prior licensing jurisdiction did not require examination, the board may require the person to pass an examination before license renewal.

B. The board by rule shall determine the states and territories of the United States and the District of Columbia from which it will not accept applicants for expedited licensure and determine the foreign countries from which it will accept applicants for expedited licensure. The board shall post the lists of disapproved and approved licensing jurisdictions on its website. The list of disapproved licensing jurisdictions shall include the specific reasons for

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disapproval. The lists shall be reviewed annually to determine if amendments to the rule are warranted."

SECTION 58. Section 61-14-5 NMSA 1978 (being Laws 1967, Chapter 62, Section 4, as amended) is amended to read:

"61-14-5. BOARD--DUTIES.--The board shall:

A. examine and determine the qualifications and fitness of applicants for a license to practice veterinary medicine in New Mexico and issue, renew, deny, suspend or revoke licenses in accordance with the Uniform Licensing Act;

B. regulate artificial insemination and pregnancy diagnosis by establishing standards of practice and issuing permits to persons found qualified;

C. establish a schedule of license and permit fees based on the board's financial requirements for the ensuing year;

D. conduct investigations necessary to determine violations of the Veterinary Practice Act and discipline persons found in violation in accordance with the Uniform Licensing Act;

E. employ personnel necessary to carry out its duties;

F. in accordance with the State Rules Act, promulgate and enforce rules necessary to establish recognized standards for the practice of veterinary medicine and to carry out the provisions of the Veterinary Practice Act. The board shall make available to interested members of the public copies of the Veterinary Practice Act and all rules promulgated by the board;

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G. examine applicants for veterinary technician certification purposes. Such examination shall be held at least once a year at the times and places designated by the board;

H. establish a five-member veterinary technician examining committee;

I. ~~adopt~~ promulgate rules establishing continuing education requirements as a condition for license renewal;

J. regulate the operation of veterinary facilities, including:

(1) establishing requirements for operation of a veterinary facility in accordance with recognized standards for the practice of veterinary medicine;

(2) issuing permits to qualified veterinary facilities; and

(3) ~~adopting~~ promulgating standards for inspection of veterinary facilities.

For purposes of this subsection, "veterinary facility" means a building, mobile unit, vehicle or other location where services included within the practice of veterinary medicine are provided;

K. perform the duties imposed on the board pursuant to the Animal Sheltering Act; and

L. establish a five-member sheltering committee."

SECTION 59. Section 61-14A-8 NMSA 1978 (being Laws 1993,

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Chapter 158, Section 16, as amended) is amended to read:

"61-14A-8. BOARD--POWERS.--The board has the power to:

A. enforce the provisions of the Acupuncture and Oriental Medicine Practice Act;

B. [~~adopt, publish and file~~] promulgate, in accordance with [~~the Uniform Licensing Act and~~] the State Rules Act, all rules necessary for the implementation and enforcement of the provisions of the Acupuncture and Oriental Medicine Practice Act;

C. adopt a code of ethics;

D. adopt and use a seal;

E. inspect facilities of approved educational programs, extern programs and the offices of licensees;

F. [~~adopt~~] promulgate rules implementing continuing education requirements for the purpose of protecting the health and well-being of the citizens of this state and maintaining and continuing informed professional knowledge and awareness; and

G. in accordance with the Uniform Licensing Act:

(1) issue investigative subpoenas for the purpose of investigating complaints against licensees prior to the issuance of a notice of contemplated action;

[H.] (2) administer oaths and take testimony on any matters within the board's jurisdiction;

[I.] (3) conduct hearings upon charges relating to the discipline of licensees, including the denial, suspension or revocation of a license [~~in accordance with the Uniform Licensing Act~~]; and

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[~~J~~] (4) grant, deny, renew, suspend or revoke licenses to practice acupuncture and oriental medicine or grant, deny, renew, suspend or revoke approvals of educational programs and extern programs [~~in accordance with the provisions of the Uniform Licensing Act~~] for any cause stated in the Acupuncture and Oriental Medicine Practice Act or the rules of the board."

SECTION 60. Section 61-14A-13 NMSA 1978 (being Laws 1993, Chapter 158, Section 21, as amended) is amended to read:

"61-14A-13. REQUIREMENTS FOR [~~RECIPROCAL~~] EXPEDITED LICENSING.--

A. The board [~~may~~] shall grant a license to practice acupuncture and oriental medicine without examination to a person who has been licensed, certified, registered or legally recognized as a doctor of oriental medicine in another [~~state, District or territory of the United States or foreign country~~] licensing jurisdiction in accordance with Section 61-1-31.1 NMSA 1978 if the applicant:

[~~A~~] (1) submits the completed application for [~~reciprocal~~] expedited licensing on the form provided by the board;

[~~B~~] (2) submits the required documentation as determined by the board;

[~~G~~] (3) submits the required fee for application for [~~reciprocal~~] expedited licensing; and

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~~[D. submits an affidavit stating that the applicant has not been found guilty of unprofessional conduct or incompetency;~~

~~E. has passed a practical examination that demonstrates his knowledge of and skill in the application of the diagnostic and treatment techniques of acupuncture and oriental medicine, if the board requires regular applicants to pass a practical examination, or, within the last six years, has five years of clinical experience, as defined by rule, in the practice of acupuncture and oriental medicine;~~

F. ~~has passed]~~ (4) passes a written examination on the state laws and rules that pertain to the practice of acupuncture and oriental medicine, if the board requires regular applicants for licensure to pass such an examination.

~~[G. is licensed, certified, registered or legally recognized as a doctor of oriental medicine in another state district or territory of the United States, or foreign country in which the requirements for practice are similar to those of this state; and~~

~~H. is licensed, certified, registered or legally recognized as a doctor of oriental medicine in a state, district or territory of the United States or foreign country that permits a doctor of oriental medicine licensed under the provisions of the Acupuncture and Oriental Medicine Practice Act to practice acupuncture and oriental medicine in that jurisdiction by reciprocal credentials review.]~~

B. The board shall issue the expedited license as

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soon as practicable but no later than thirty days after the person files an application with the required fees and demonstrates that the person holds a valid, unrestricted license and is in good standing with the licensing board in the other licensing jurisdiction and has practiced for at least two years immediately prior to application in New Mexico. If the board issues an expedited license to a person whose prior licensing jurisdiction did not require examination, the board may require the person to pass an examination before license renewal.

C. The board by rule shall determine the states and territories of the United States and the District of Columbia from which it will not accept an applicant for expedited licensure and determine any foreign countries from which it will accept an applicant for expedited licensure. The board shall post the lists of disapproved and approved licensing jurisdictions on its website. The list of disapproved licensing jurisdictions shall include specific reasons for disapproval. The lists shall be reviewed annually to determine if amendments to the rule are warranted."

SECTION 61. Section 61-14A-16 NMSA 1978 (being Laws 1993, Chapter 158, Section 24, as amended) is amended to read:

"61-14A-16. FEES.--Except as provided in Section 61-1-34 NMSA 1978, the board shall establish a schedule of reasonable nonrefundable fees not to exceed the following amounts:

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- A. application for licensing \$800;
 - B. application for [~~reciprocal~~] expedited licensing 750;
 - C. application for temporary licensing. 500;
 - D. examination, not including the cost of any nationally recognized examination 700;
 - E. annual license renewal 400;
 - F. late license renewal 200;
 - G. expired license renewal. 400;
 - H. temporary license renewal. 100;
 - I. application for approval or renewal of approval of an educational program. 600;
 - J. late renewal of approval of an educational program 200;
 - K. annual continuing education provider registration. 200;
 - L. application for extended or expanded prescriptive authority. 500;
 - M. application for externship supervisor registration. 500;
 - N. application for extern certification 500;
- and
- O. [~~any and all~~] fees to cover reasonable and necessary administrative expenses."

SECTION 62. Section 61-14B-11 NMSA 1978 (being Laws 1996, Chapter 57, Section 11, as amended) is amended to read:

"61-14B-11. BOARD POWERS AND DUTIES.--The board shall:

- A. [~~adopt~~] promulgate rules [~~and regulations and~~

~~establish policy~~] necessary to carry out the provisions of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act in accordance with the [~~Uniform Licensing~~] State Rules Act;

B. [~~adopt~~] promulgate rules implementing continuing education requirements;

C. adopt a code of ethics that includes rules requiring audiologists and hearing aid dispensers, at the time of the initial examination for possible sale and fitting of a hearing aid if a hearing loss is determined, to inform each prospective purchaser about hearing aid options that can provide a direct connection between the hearing aid and assistive listening systems. These rules shall be in accordance with the latest standards for accessible design adopted by the United States department of justice in accordance with the federal Americans with Disabilities Act of 1990, as amended;

D. conduct hearings upon charges relating to the discipline of licensees, including the denial, suspension or revocation of a license in accordance with the Uniform Licensing Act;

E. investigate complaints against licensees by issuing investigative subpoenas prior to the issuance of a notice of contemplated action;

F. establish fees for licensure;

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G. provide for the licensing and renewal of licenses of applicants; and

H. ~~[adopt]~~ promulgate rules that provide for ~~[licensure by reciprocity, including]~~ expedited licensure and temporary permits for speech-language pathologists, audiologists or hearing aid dispensers."

SECTION 63. A new section of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act is enacted to read:

"[NEW MATERIAL] EXPEDITED LICENSURE.--

A. The board shall issue an expedited license without examination to a speech-language pathologist, audiologist or hearing aid dispenser licensed in another licensing jurisdiction in accordance with Section 61-1-31.1 NMSA 1978. The board shall issue the expedited license as soon as practicable but no later than thirty days after the person files an application with the required fees and demonstrates that the person holds a valid, unrestricted license and is in good standing with the licensing board in the other licensing jurisdiction ~~Hfll~~→~~and has practiced for at least two years immediately prior to application in New Mexico~~←Hfll . If the board issues an expedited license to a person whose prior licensing jurisdiction did not require examination, the board may require the person to pass an examination before license renewal.

B. The board by rule shall determine the states and territories of the United States and the District of Columbia from which it will not accept an applicant for expedited

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licensure and determine any foreign countries from which it will accept an applicant for expedited licensure. The board shall post the lists of disapproved and approved licensing jurisdictions on its website. The list of disapproved licensing jurisdictions shall include specific reasons for disapproval. The lists shall be reviewed annually to determine if amendments to the rule are warranted."

SECTION 64. Section 61-14D-8 NMSA 1978 (being Laws 1993, Chapter 325, Section 8, as amended) is amended to read:

"61-14D-8. DEPARTMENT DUTIES.--The department [~~in consultation with~~] shall assist the board in administering the Athletic Trainer Practice Act and shall:

- A. process applications and conduct and review the required examinations;
- B. issue licenses and provisional permits to applicants who meet the requirements of the Athletic Trainer Practice Act;
- C. administer and coordinate [~~and enforce~~] the provisions of the Athletic Trainer Practice Act and investigate persons engaging in practices that may violate the provisions of that act;
- D. conduct any required examinations of applicants;
- E. hire staff as may be necessary to carry out the actions of the board;
- F. maintain board records, including financial

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records; and

G. maintain a current register of licensees as a matter of public record."

SECTION 65. A new section of the Athletic Trainer Practice Act is enacted to read:

"[NEW MATERIAL] EXPEDITED LICENSURE.--

A. The board shall issue an expedited license without examination to an athletic trainer licensed in another licensing jurisdiction in accordance with Section 61-1-31.1 NMSA 1978. The board shall issue the expedited license as soon as practicable but no later than thirty days after the person files an application with the required fees and demonstrates that the person holds a valid, unrestricted license and is in good standing with the licensing board in the other licensing jurisdiction Hf11→~~and has practiced for at least two years prior to application in New Mexico~~←Hf11. If the board issues an expedited license to a person whose prior licensing jurisdiction did not require examination, the board may require the person to pass an examination before license renewal.

B. The board by rule shall determine the states and territories of the United States and the District of Columbia from which it will not accept an applicant for expedited licensure and determine any foreign countries from which it will accept an applicant for expedited licensure. The board shall post the lists of disapproved and approved licensing jurisdictions on its website. The list of disapproved licensing jurisdictions shall include specific reasons for disapproval. The lists shall be reviewed annually to determine

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if amendments to the rule are warranted."

SECTION 66. Section 61-14D-14 NMSA 1978 (being Laws 1993, Chapter 325, Section 14, as amended) is amended to read:

"61-14D-14. FEES.--Except as provided in Section 61-1-34 NMSA 1978, the board shall establish a schedule of reasonable fees, not to exceed one hundred dollars (\$100) each for applications, licenses, expedited licenses, provisional permits, renewal of licenses, placement on inactive status and necessary and reasonable administrative fees and initial prorated licensing fees."

SECTION 67. Section 61-15-4 NMSA 1978 (being Laws 1931, Chapter 155, Section 3, as amended) is amended to read:

"61-15-4. POWERS AND DUTIES OF THE BOARD.--

A. The board shall hold at least four regular meetings each year. Any board member failing to attend three consecutive regular meetings is automatically removed as a member of the board. A majority of the board members constitutes a quorum.

B. A board member may participate in a meeting of the board by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting in person if:

(1) each member participating by conference telephone can be identified when speaking;

(2) all participants are able to hear each

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other at the same time; and

(3) members of the public attending the meeting are able to hear all board members who speak during the hearing.

C. The board may establish committees to carry out the provisions of the Architectural Act. The board or any committee of the board shall have the power to subpoena any witness, to administer oaths and to take testimony concerning matters within its jurisdiction. It is within the jurisdiction of the board to determine and prescribe by rules promulgated in accordance with the State Rules Act the professional and technical qualifications necessary for the practice of architecture in New Mexico. The board shall adopt and have an official seal, which shall be affixed to all certificates of registration granted, and ~~may~~ shall not make rules ~~not~~ inconsistent with law.

D. The board may offer, engage in and promote educational and other activities as it deems necessary to fulfill its duty to promote the public welfare.

E. The board may, for the purpose of protecting the citizens of New Mexico and promoting current architectural knowledge and practice, ~~adopt~~ promulgate rules establishing continuing education requirements as a condition of registration renewal.

F. Members of the board shall receive per diem and mileage as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance. All expenses certified by the board as properly and necessarily

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incurred in the discharge of its duties, including authorized reimbursement and necessary expenses incident to cooperation with like boards of other states, shall be paid by the state treasurer out of the "fund of the board of examiners for architects" on the warrant of the secretary of finance and administration issued upon vouchers signed by the chair or the chair's designee; provided, however, that at no time shall the total warrants issued exceed the total amount of funds accumulated under the Architectural Act. All money derived from the operation of the Architectural Act, not including fines, shall be deposited with the state treasurer, who shall keep the money in the fund of the board of examiners for architects.

G. The board shall by rule provide for the examinations required for registration. The board shall keep a complete record of all examinations.

H. Upon application for registration, upon a prescribed form and upon payment by the applicant of a fee set by the board, the board shall consider the application and [~~in cases as herein authorized~~] shall issue a certificate of registration as an architect to any person who submits evidence satisfactory to the board that the person is fully qualified to practice architecture.

I. It is the duty of the board to report to the district attorney of the district where the offense was

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committed any criminal violation of the Architectural Act.

J. The board may deny, review, suspend or revoke a registration to practice architecture and may censure, fine, reprimand and place on probation and stipulation any architect in accordance with the Uniform Licensing Act for any cause as stated in the Architectural Act.

K. The board, in cooperation with the state board of licensure for professional engineers and professional surveyors and the board of landscape architects, shall create a joint standing committee to be known as the "joint practice committee". In order to safeguard life, health and property and to promote public welfare, the purpose of the committee is to promote and develop the highest professional standards in design, planning and construction and the resolution of ambiguities concerning the professions. The composition of the committee and its duties and powers shall be in accordance with identical resolutions adopted by each board.

L. Pursuant to the notice and hearing requirements of the Uniform Licensing Act, the board may impose a civil penalty in an amount not to exceed seven thousand five hundred dollars (\$7,500) for each violation on ~~[any individual]~~ a person found to be engaging in the practice of architecture without being registered pursuant to the Architectural Act. Civil penalties shall be deposited to the credit of the current school fund as provided in Article 12, Section 4 of the constitution of New Mexico."

SECTION 68. Section 61-15-10 NMSA 1978 (being Laws 1979, Chapter 362, Section 8, as amended) is amended to read:

"61-15-10. VIOLATIONS--PENALTIES.--

A. ~~[Any]~~ A person who knowingly uses a forged architectural registration seal on ~~[any]~~ a document for the purpose of permitting the constructing of ~~[any]~~ a building for human habitation or occupancy is guilty of a fourth degree felony, punishable pursuant to Section 31-18-15 NMSA 1978.

B. Each of the following acts ~~[committed by any person]~~ constitutes a misdemeanor, punishable pursuant to Section 31-19-1 NMSA 1978:

(1) willfully forging or giving false evidence of any kind to the board or any board member for the purpose of obtaining a certificate of registration as an architect;

(2) using or attempting to use an expired, suspended or revoked certificate of registration as an architect;

(3) using or permitting another to use the person's official architect's seal to stamp or seal any documents that have not been prepared either by the architect or the architect's responsible charge;

(4) engaging or offering to engage in the practice of architecture, unless exempted or duly registered to do so under the Architectural Act;

(5) using a designation tending to imply to the public that the person is an architect unless:

(a) the person is duly registered to do

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so under the provisions of the Architectural Act;

(b) the title containing the designation is allowed by rule of the board; or

(c) the title containing the designation does not imply that the person using the designation, when describing occupation, business name or services, is offering to perform architectural services; or

(6) procuring, aiding or abetting any violation of the provisions of the Architectural Act or the rules adopted by the board.

C. If, after a disciplinary hearing conducted in accordance with the Uniform Licensing Act, the board determines that based on the evidence, a person committed a violation pursuant to the Architectural Act, the board, in addition to any other sanction, shall issue an order that imposes a civil penalty not to exceed seven thousand five hundred dollars (\$7,500) for each violation on the person. In determining the amount of the civil penalty, the board shall consider:

- (1) the seriousness of the violation;
- (2) the degree of harm inflicted on individuals or the public;
- (3) the economic benefit received by the person due to the violation;
- (4) the person's history of violations; and
- (5) any other aggravating or mitigating factors relating to the violation."

SECTION 69. Section 61-17A-2 NMSA 1978 (being Laws 1993, Chapter 171, Section 2, as amended by Laws 2017, Chapter 108,

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Section 1 and by Laws 2017, Chapter 112, Section 3) is amended to read:

"61-17A-2. DEFINITIONS.--As used in the Barbers and Cosmetologists Act:

A. "barber" means a person, other than a student, who for compensation engages in barbering;

B. "board" means the board of barbers and cosmetologists;

C. "cosmetologist" means a person, other than a student, who for compensation engages in cosmetology;

D. "department" means the regulation and licensing department;

~~[D.]~~ E. "electrologist" means a person, other than a student, who for compensation removes hair from or destroys hair on the human body through the use of an electric current applied to the body with a needle-shaped electrode or probe;

~~[E.]~~ F. "enterprise" means a business venture, firm or organization;

~~[F.]~~ G. "establishment" means an immobile beauty shop, barber shop, electrology clinic, salon or similar place of business in which cosmetology, barbering, eyebrow threading, hairstyling or electrolysis is performed;

~~[G.]~~ H. "esthetician" means a person, other than a student, who for compensation:

(1) uses cosmetic preparations, including

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makeup applications, antiseptics, powders, oils, clays or creams, for the purpose of preserving the health and beauty of the skin and body;

(2) massages, cleans, stimulates or manipulates the skin for the purpose of preserving the health and beauty of the skin and body; or

(3) performs activities similar to the activities described in Paragraph (1) or (2) of this subsection on any part of the body of a person;

[H.] I. "eyebrow threading" means a method of hair removal in which a thin thread is doubled, twisted and then rolled over areas of unwanted hair, plucking the hair at the follicle level;

[I.] J. "hairstylist" means a person, other than a student, who for compensation engages in hairstyling;

[J.] K. "manicurist-pedicurist" means a person, other than a student, who for compensation performs work on the nails of a person and applies nail extensions or products to the nails for the purpose of strengthening or preserving the health and beauty of the hands or feet;

[K.] L. "sanitation" means the maintenance of sanitary conditions to promote hygiene and the prevention of disease through the use of chemical agents or products;

[L.] M. "school" means a public or private instructional facility approved by the board that teaches cosmetology, barbering or hairstyling; and

[M.] N. "student" means a person enrolled in a school to learn or be trained in cosmetology, barbering,

hairstyling or electrolysis."

SECTION 70. Section 61-17A-7 NMSA 1978 (being Laws 1993, Chapter 171, Section 7, as amended) is amended to read:

"61-17A-7. BOARD AND DEPARTMENT POWERS AND DUTIES.--

A. The board shall:

(1) adopt and file, in accordance with the State Rules Act, rules necessary to carry out the provisions of the Barbers and Cosmetologists Act;

(2) establish fees;

(3) provide for the examination, licensure and license renewal of applicants for licensure;

(4) establish standards for and provide for the examination, licensure and license renewal of manicurists-pedicurists, estheticians and electrologists;

~~[(5) adopt a seal;~~

~~[(6) furnish copies of rules and sanitary requirements adopted by the board to each owner or manager of an establishment, enterprise or school;~~

~~[(7)]~~ (5) keep a record of its proceedings and a register of applicants for licensure;

~~[(8)]~~ (6) provide for the licensure of barbers, hairstylists, cosmetologists, manicurists-pedicurists, estheticians, electrologists, instructors, schools, enterprises and establishments;

~~[(9)]~~ (7) establish administrative penalties

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and fines;

~~[(10)]~~ (8) create and establish standards and fees for special licenses;

~~[(11)]~~ (9) establish guidelines for schools to calculate tuition refunds for withdrawing students; and

~~[(12)]~~ (10) issue cease and desist orders to persons violating the provisions of the Barbers and Cosmetologists Act and rules promulgated in accordance with that act in accordance with the Uniform Licensing Act.

B. The board may establish continuing education requirements as requirements for licensure.

C. A member of the board, its employees or agents may enter and inspect a school, enterprise or establishment at any time during regular business hours for the purpose of determining compliance with the Barbers and Cosmetologists Act.

D. The department shall:

(1) process and issue licenses to applicants who meet the requirements of the Barbers and Cosmetologists Act and board rules;

(2) investigate persons engaging in practices that may violate the provisions of the Barbers and Cosmetologists Act and report results of investigations to the board;

(3) approve the selection of and supervise primary staff assigned to the board;

(4) carry out the operations of the board to include budgetary expenditures;

(5) maintain records, including financial

records; and

(6) keep a licensee record in which the names, addresses and license numbers of all licensees shall be recorded together with a record of all license renewals, suspensions and revocations."

SECTION 71. Section 61-17A-8 NMSA 1978 (being Laws 1993, Chapter 171, Section 8, as amended) is amended to read:

"61-17A-8. LICENSURE REQUIREMENTS--BARBERS.--

A. Except as provided in Subsection B of this section, a barber license shall be issued to any person who files a completed application, accompanied by the required fees and documentation, and who:

~~[(1) has an education equivalent to the completion of the second year of high school;~~

~~(2)]~~ (1) is at least seventeen years of age;

~~[(3)]~~ (2) has completed a course in barbering of at least one thousand two hundred hours or equivalent credits in a school or apprenticeship approved by the board; and

~~[(4)]~~ (3) has passed an examination approved by the board.

B. A barbering license shall be issued to a person who files a completed application, accompanied by the required fees and documentation, meets the requirements of Paragraphs (1) through ~~[(4)]~~ (3) of Subsection A of this section and shows

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proof of having successfully completed a registered barbering apprenticeship approved by the state apprenticeship agency and the board of barbers and cosmetologists.

C. The holder of a barber license has the right and privilege to use the title "barber", and the initials "R.B." following the holder's surname and to use a barber pole, the traditional striped, vertical emblem of the barbering trade."

SECTION 72. Section 61-17A-8.1 NMSA 1978 (being Laws 2017, Chapter 112, Section 2) is amended to read:

"61-17A-8.1. LICENSURE REQUIREMENTS--HAIRSTYLISTS.--

A. Except as provided in Subsection B of this section, a hairstylist license shall be issued to a person who files a completed application, accompanied by the required fees and documentation, and who:

~~[(1) has an education equivalent to the completion of the second year of high school;~~

~~(2)]~~ (1) is at least seventeen years of age;

~~[(3)]~~ (2) has completed a course in hairstyling of at least one thousand two hundred hours in a school approved by the board; and

~~[(4)]~~ (3) has passed an examination approved by the board.

B. A hairstylist license shall be issued to a person who files a completed application, accompanied by the required fees and documentation, and meets the requirements of Paragraphs (1) through ~~[(4)]~~ (3) of Subsection A of this section.

C. The holder of a hairstylist license has the

right and privilege to use the title "hairstylist"."

SECTION 73. Section 61-17A-9 NMSA 1978 (being Laws 1993, Chapter 171, Section 9, as amended) is amended to read:

"61-17A-9. LICENSURE REQUIREMENTS--COSMETOLOGISTS.--

A. A cosmetologist license shall be issued to any person who files a completed application, accompanied by the required fees and documentation, and who:

(1) is at least seventeen years of age;

~~[(2) has an education equivalent to the completion of the second year of high school;~~

~~(3)]~~ (2) has completed a course in cosmetology of at least one thousand six hundred hours at a school approved by the board; and

~~[(4)]~~ (3) has passed an examination approved by the board.

B. The name of a licensed cosmetologist may be immediately followed by the initials "R.C.", as a right and privilege of licensure."

SECTION 74. Section 61-17A-11 NMSA 1978 (being Laws 1993, Chapter 171, Section 11, as amended) is amended to read:

"61-17A-11. LICENSURE OF INSTRUCTORS.--

A. A cosmetologist instructor license shall be issued to any person who files a completed application, accompanied by the required fees and documentation, and who:

(1) is a licensed cosmetologist;

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~~[(2) has completed at least a four-year high school course of study or its equivalent as approved by the board;~~

~~(3)]~~ (2) has met all requirements established by the board; and

~~[(4)]~~ (3) has passed an examination approved by the board.

B. A barber instructor license shall be issued to any person who files a completed application, accompanied by the required fees and documentation, and who:

(1) is a licensed barber;

(2) has completed at least a four-year high school course of study or its equivalent as approved by the board;

(3) has met all requirements established by the board; and

(4) has passed an examination approved by the board.

C. An electrologist instructor license shall be issued to any person who files a completed application, accompanied by the required fees and documentation, and who submits satisfactory evidence of compliance with all requirements established by the board.

D. The name of a licensed instructor may be immediately followed by the initials "R.I.", as a right and privilege of licensure."

SECTION 75. Section 61-17A-14 NMSA 1978 (being Laws 1993, Chapter 171, Section 14) is amended to read:

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"61-17A-14. BARBERS AND COSMETOLOGISTS FUND CREATED.--

The "barbers and cosmetologists fund" is created in the state treasury. All license fees and charges [~~and fines~~] imposed by the board shall be deposited in the fund. Money in the fund is appropriated to the board for the purpose of carrying out the provisions of the Barbers and Cosmetologists Act. Any balance remaining in the fund at the end of each fiscal year shall not revert to the general fund."

SECTION 76. Section 61-17A-17 NMSA 1978 (being Laws 1993, Chapter 171, Section 17, as amended) is amended to read:

"61-17A-17. LICENSURE UNDER PRIOR LAW--~~[ENDORSEMENT]~~
EXPEDITED LICENSURE.--

A. [~~Any~~] A person licensed as a barber, a cosmetologist, an esthetician, an electrologist, an instructor of cosmetology or barbering or an instructor of electrology, a manicurist-pedicurist or [~~any~~] a person holding an establishment license, clinic license or school owner's license under [~~any~~] prior laws of this state, which license is valid on [~~the effective date of the Barbers and Cosmetologists Act~~] June 18, 1993, shall be held to be licensed under the provisions of [~~that~~] the Barbers and Cosmetologists Act and shall be entitled to the renewal of [~~his~~] the person's license as provided in that act.

B. The board [~~may~~] shall grant a license pursuant to the provisions of the Barbers and Cosmetologists Act without

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an examination, upon payment of the required fee; provided that the applicant [~~(1)~~] holds a [~~current~~] valid, unrestricted license from another [state, territory or possession of the United States or the District of Columbia, that has training hours and qualifications similar to or exceeding those required for licensure in New Mexico; and

~~(2) meets all other requirements for reciprocity as determined by regulation of the board] licensing jurisdiction.~~

C. No later than thirty days after a person files an application for licensure, the board shall process the application and issue an expedited license in accordance with procedures in Section 61-1-31.1 NMSA 1978. The board by rule shall determine the states and territories of the United States and the District of Columbia from which it will not accept an applicant for expedited licensure and shall determine foreign countries from which it will accept an applicant for expedited licensure. The board shall post the lists of disapproved and approved licensing jurisdictions on its website. The list of disapproved licensing jurisdictions shall include the specific reasons for disapproval. The lists shall be reviewed annually to determine if amendments to the rule are warranted."

SECTION 77. Section 61-17A-18 NMSA 1978 (being Laws 1993, Chapter 171, Section 18, as amended) is amended to read:

"61-17A-18. LICENSE TO BE DISPLAYED--NOTICE OF CHANGE OF PLACE OF BUSINESS.--Every holder of a license issued pursuant to the Barbers and Cosmetologists Act shall notify the [~~executive director~~] department of any change in place of

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business. [~~Upon receipt of the notification, the executive director shall make the necessary change in the books.~~] A license shall be displayed conspicuously at the holder's place of business."

SECTION 78. Section 61-17A-19 NMSA 1978 (being Laws 1993, Chapter 171, Section 19) is amended to read:

"61-17A-19. LICENSE NONTRANSFERABLE.--Each license shall be issued under the authority of the Barbers and Cosmetologists Act by the [~~board~~] department in the name of the licensee. The license may not be the subject of a sale, transfer, assignment, conveyance, lease, bequest, gift or other means of transfer."

SECTION 79. Section 61-17A-21 NMSA 1978 (being Laws 1993, Chapter 171, Section 21, as amended) is amended to read:

"61-17A-21. GROUNDS FOR REFUSAL TO ISSUE, RENEW, SUSPEND OR REVOKE A LICENSE.--

A. The board shall, in accordance with the provisions of the Uniform Licensing Act, issue a fine or penalty, restrict, refuse to issue or renew or shall suspend or revoke a license for any one or more of the following causes:

- (1) the commission of any offense described in the Barbers and Cosmetologists Act;
- (2) the violation of any sanitary regulation promulgated by the board;
- (3) malpractice or incompetency;
- (4) advertising by means of knowingly false or

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deceptive statements;

~~[(5) habitual drunkenness or habitual
addiction to the use of habit-forming drugs;]~~

(5) working in a capacity regulated pursuant
to the Barbers and Cosmetologists Act while under the influence
of intoxicating liquor or drugs;

(6) continuing to practice in or be employed
by an establishment, an enterprise, a school or an electrology
clinic in which the sanitary ~~[regulations]~~ rules of the board,
of the department of health or of any other lawfully
constituted board or state agency, promulgated for the
regulation of establishments, enterprises, schools or
electrology clinics, are known by the licensee to be violated;

(7) default of a licensee on a student loan;

(8) gross continued negligence in observing
the rules and regulations;

(9) renting, loaning or allowing the use of
the license to any person not licensed under the provisions of
the Barbers and Cosmetologists Act;

(10) dishonesty or unfair or deceptive
practices;

(11) sexual, racial or religious harassment;

(12) conduct of illegal activities in an
establishment, enterprise, school or electrology clinic or by a
licensee; or

~~[(13) conviction of a crime involving moral
turpitude; or~~

~~(14)]~~ (13) aiding, abetting or conspiring to

evade or violate the provisions of the Barbers and Cosmetologists Act.

B. Any license suspended or revoked shall be delivered to the ~~[board]~~ department or any agent of the ~~[board]~~ department upon demand."

SECTION 80. Section 61-17B-5 NMSA 1978 (being Laws 2007, Chapter 181, Section 5, as amended) is amended to read:

"61-17B-5. LICENSE--APPLICATION--RENEWAL--EXPEDITED LICENSURE--REVOCATION--SUSPENSION.--

A. A body artist shall obtain a body art license, and an operator shall obtain a body art establishment license, the requirements for which shall be defined by the board by rules promulgated in accordance with the State Rules Act and shall include the requirement that a body artist applicant demonstrate that the body artist has the training and experience necessary to perform body piercing, tattooing or scarification and the requirement that a sanitary and sterile body art establishment be maintained; provided that the board shall grant credit for training and experience obtained from any source, whether obtained within or outside the state, if the applicant demonstrates that ~~[the training and experience received by the applicant is equivalent to the]~~ the applicant meets the training and experience required pursuant to the Body Art Safe Practices Act.

B. An operator or body artist shall possess and

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post in a conspicuous place a valid [~~and unsuspended~~] license issued by the board in accordance with the Body Art Safe Practices Act and the rules promulgated pursuant to that act. An operator or a body artist shall not display a license unless it has been issued to that operator or body artist by the board and has not been suspended or revoked.

C. An operator or body artist shall apply to the board for the issuance or renewal of a license annually and shall pay license fees established by the board. Except as provided in Section 61-1-34 NMSA 1978, the board shall set license fees and license renewal fees [~~and late fees in amounts necessary to administer the provisions of the Body Art Safe Practices Act~~] not to exceed three hundred dollars (\$300) and late fees not to exceed one hundred dollars (\$100). If an operator or body artist fails to renew a license for the next year, the license is void; provided that the voided license may be restored at any time during the year following the license's expiration upon the payment of the appropriate license renewal fee and a late charge not to exceed one hundred dollars (\$100) as set forth by board rules. If the operator or body artist fails to restore a license within one year following the license's expiration, the operator or body artist may request restoration of the license pursuant to rules promulgated by the board.

D. As soon as practicable, but no later than thirty days after an application is submitted, the board shall process the application and issue an expedited license in accordance with Section 61-1-31.1 NMSA 1978 to a person licensed in

another licensing jurisdiction. The board by rule shall determine those states and territories of the United States and the District of Columbia from which it will not accept an applicant for expedited licensure and those foreign countries from which it will accept an application for expedited licensure. The lists of disapproved and approved licensing jurisdictions shall be posted on the board's website. The list of disapproved licensing jurisdictions shall include specific reasons for disapproval. The lists shall be reviewed annually to determine if amendments to the rule are warranted.

[D.] E. The board [~~shall promulgate rules for the revocation or suspension of~~] may suspend or revoke a license for a body art establishment or a body artist who fails to comply with a provision of the Body Art Safe Practices Act or rules promulgated pursuant to that act in accordance with the Uniform Licensing Act. A license shall not be suspended or revoked [~~pursuant to the Body Art Safe Practices Act~~] without providing the operator or the body artist with an opportunity for an administrative hearing unless conditions in the body art establishment warrant immediate suspension pursuant to Section 61-17B-9 NMSA 1978. The hearing officer shall not be a person previously involved in the suspension or revocation action. An inspection made more than twenty-four months prior to the most recent inspection shall not be used as a basis for suspension or revocation.

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[~~F.~~] F. Except as provided in Section 61-1-34 NMSA 1978, the board shall charge a fee not to exceed three hundred dollars (\$300) for the application to issue a new or renewed license. The applicant shall provide proof of current immunization as required by the board and proof of the applicant's attendance at a blood-borne pathogen training program and other training as required by the board before a license is issued or renewed.

[~~F.~~] G. A current body art license or body art establishment license shall not be transferable from one person to another.

[~~G.~~] H. The following information shall be kept on the premises of a body art establishment and shall be available for inspection by the board:

(1) the full names of all employees in the establishment and their exact duties;

(2) the board-issued license with identification photograph for the operator and any body artists;

(3) the body art establishment name and hours of operation;

(4) the name and address of the operator;

(5) a complete description of all body art performed at the body art establishment;

(6) a list of all instruments, body jewelry, sharps and inks used at the body art establishment, including names of manufacturers and serial or lot numbers or invoices or other documentation sufficient to identify and locate the

manufacturer of those items; and

(7) a current copy of the Body Art Safe Practices Act.

[H-] I. An operator shall notify the board in writing not less than thirty days before changing the location of a body art establishment. The notice shall include the street address of the body art establishment's new location."

SECTION 81. Section 61-17B-16 NMSA 1978 (being Laws 2015, Chapter 129, Section 8) is amended to read:

"61-17B-16. BOARD POWERS AND DUTIES.--

A. The board shall:

(1) in conjunction with the department of health, promulgate rules in accordance with the State Rules Act necessary to implement the provisions of the Body Art Safe Practices Act;

(2) establish fees;

(3) establish standards and provide for the issuance of new and renewal operator and body artist licenses to applicants;

(4) adopt a seal;

(5) furnish copies of rules and sanitation and sterilization requirements [~~adopted~~] promulgated by the board to each operator of a body art establishment;

(6) keep a record of its proceedings, a register of applicants for licensure and a register of licensed

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operators and body artists; ~~and~~

(7) issue cease and desist orders to persons who violate the provisions of the Body Art Safe Practices Act or rules promulgated pursuant to that act; and

(8) deny, suspend or revoke a license or undertake any other disciplinary action in accordance with the Uniform Licensing Act.

B. The board may establish continuing education or other requirements for licensure.

C. A member of the board, its employees or agents may enter and inspect a body art establishment at any time during regular business hours for the purpose of determining compliance with the Body Art Safe Practices Act."

SECTION 82. Section 61-17B-17 NMSA 1978 (being Laws 2015, Chapter 129, Section 7) is amended to read:

"61-17B-17. BODY ART PRACTITIONERS FUND CREATED.--The "body art practitioners fund" is created in the state treasury. The fund consists of appropriations, gifts, grants and donations; license fees and charges ~~[and fines]~~ that are imposed by the board ~~[and that shall be deposited into the fund]~~; and money otherwise accruing to the fund. Money in the fund is appropriated to the board for the purpose of carrying out the provisions of the Body Art Safe Practices Act. Money in the fund shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the chair of the board or the chair's authorized representative. Any balance remaining in the fund at the end of a fiscal year shall not revert to the general fund."

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SECTION 83. Section 61-17B-18 NMSA 1978 (being Laws 2015, Chapter 129, Section 9) is amended to read:

"61-17B-18. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of body art practitioners is terminated on July 1, [2021] 2027 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Body Art Safe Practices Act until July 1, [2022] 2028. Effective July 1, [2022] 2028, the Body Art Safe Practices Act is repealed."

SECTION 84. Section 61-18A-4 NMSA 1978 (being Laws 1987, Chapter 252, Section 4) is amended to read:

"61-18A-4. RULES [~~AND REGULATIONS~~]--VIOLATIONS.--

A. The director shall [~~establish~~] promulgate rules in accordance with the State Rules Act and enforce [~~such~~] those rules [~~and regulations~~] as [~~may be~~] are reasonable or necessary for the examination and licensing of collection agencies, repossessors, managers and solicitors, for the conduct of such persons and for the general enforcement of the various provisions of the Collection Agency Regulatory Act in the protection of the public.

B. The violation of any provisions of [~~that~~] the Collection Agency Regulatory Act or of [~~any~~] rules [~~and regulations established~~] promulgated by the director is sufficient ground for revocation of [~~any~~] a license or for other disciplinary action as provided in the Uniform Licensing

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C. ~~[No]~~ A provision of the Collection Agency Regulatory Act imposing ~~[any]~~ a liability shall not apply to ~~[any]~~ an act done or omitted in good faith in conformity with ~~[any]~~ a rule ~~[or regulation]~~ of the director, notwithstanding that after ~~[such]~~ the act or omission has occurred, ~~[such]~~ the rule ~~[or regulation]~~ is amended, rescinded or determined by judicial or other authority to be invalid for any reason."

SECTION 85. Section 61-18A-31 NMSA 1978 (being Laws 1987, Chapter 252, Section 31) is amended to read:

"61-18A-31. DEPOSIT OF ~~[MONEYS IN GENERAL FUND]~~ MONEY.-- All money received under the Collection Agency Regulatory Act by the director shall be deposited in the ~~[office of the state treasurer]~~ general fund."

SECTION 86. Section 61-23-10 NMSA 1978 (being Laws 1987, Chapter 336, Section 10, as amended) is amended to read:

"61-23-10. DUTIES AND POWERS OF THE BOARD.--

A. ~~[It shall be the duty of]~~ The board ~~[to]~~ shall administer the provisions of the Engineering and Surveying Practice Act and ~~[to]~~ exercise the authority granted the board in that act. The board is the sole state agency with the power to certify the qualifications of professional engineers and professional surveyors. The board ~~[is authorized to]~~ may engage such personnel, including an executive director, as it ~~[may deem]~~ deems necessary.

B. The board ~~[shall have the power to adopt and amend all bylaws and]~~ may promulgate rules ~~[of procedure consistent with the constitution and the laws of this state]~~ in

accordance with the State Rules Act that ~~[may be]~~ are reasonable for the proper performance of its duties and the regulation of its procedures, meeting records and examinations and the conduct ~~[thereof]~~ of examinations. The board shall ~~[adopt and]~~ promulgate rules of professional responsibility for professional engineers and professional surveyors that are not exclusive to the practice of engineering or exclusive to the practice of surveying. All such ~~[bylaws and]~~ rules shall be binding upon all persons licensed pursuant to the Engineering and Surveying Practice Act.

C. The professional engineering committee shall ~~[adopt and]~~ promulgate rules of professional responsibility exclusive to the practice of engineering. All such ~~[bylaws and]~~ rules shall be binding upon all persons licensed pursuant to the Engineering and Surveying Practice Act.

D. The professional surveying committee shall ~~[adopt and]~~ promulgate rules of professional responsibility exclusive to the practice of surveying. All such ~~[bylaws and]~~ rules shall be binding upon all persons licensed pursuant to the Engineering and Surveying Practice Act.

E. The joint engineering and surveying standing committee ~~[shall have the]~~ has exclusive authority over practice disputes between engineers and surveyors to determine if ~~[any]~~ proposed rules of professional responsibility are exclusive to the practice of engineering or exclusive to the

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practice of surveying so that rulemaking authority is delegated to the engineering committee or to the surveying committee. Determination of exclusive practice of engineering or surveying requires an affirmative vote by no less than three members of the joint committee. If an affirmative vote of three members cannot be achieved, the determination of exclusivity shall be made by the full board.

F. To effect the provisions of the Engineering and Surveying Practice Act, the board may, under the chair's hand and the board's seal, subpoena witnesses and compel the production of books, papers and documents in any disciplinary action conducted in accordance with the Uniform Licensing Act against a licensee or a person practicing or offering to practice without licensure. Any member of the board may administer oaths or affirmations to witnesses appearing before the board. If [~~any~~] a person refuses to obey [~~any~~] a subpoena so issued or refuses to testify or produce any books, papers or documents, the board may apply to a court of competent jurisdiction for an order to compel the requisite action. If [~~any~~] a person willfully fails to comply with such an order, that person may be held in contempt of court.

G. The board may apply for injunctive relief to enforce the provisions of the Engineering and Surveying Practice Act or to restrain any violation of that act. The members of the board shall not be personally liable under this proceeding.

H. The board may subject an applicant for licensure to such examinations as it deems necessary to determine the

applicant's qualifications.

I. The board shall create enforcement advisory committees composed of licensees as necessary. Each committee shall include at least four licensees in the same category as the respondent. An engineering enforcement advisory committee shall have at least one licensee in the same branch as the respondent. Enforcement advisory committees shall provide technical assistance to the board and its staff. The board shall select members from a list of volunteers submitting their resumes and letters of interest.

J. No action or other legal proceedings for damages shall be instituted against the board, ~~any~~ a board member or an agent, an employee or a member of an advisory committee of the board for any act done in good faith and in the intended performance of any power or duty granted pursuant to the Engineering and Surveying Practice Act or for any neglect or default in the good faith performance or exercise of any such power or duty.

K. The board, in cooperation with the board of examiners for architects and the board of landscape architects, shall create a joint standing committee to be known as the "joint practice committee". In order to safeguard life, health and property and to promote the public welfare, the committee shall have as its purpose the promotion and development of the highest professional standards in design, planning and

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construction and the resolution of ambiguities concerning the professions. The composition of the committee and its powers and duties shall be in accordance with identical resolutions adopted by each board.

L. As used in the Engineering and Surveying Practice Act, "incidental practice" shall be defined by identical rules of the board and the board of examiners for architects."

SECTION 87. Section 61-23-24 NMSA 1978 (being Laws 1993, Chapter 218, Section 18, as amended) is amended to read:

"61-23-24. ENGINEERING--VIOLATIONS--DISCIPLINARY ACTION--PENALTIES--REISSUANCE OF LICENSES.--

A. In accordance with the Uniform Licensing Act, the board may suspend, refuse to renew or revoke a license, impose a fine not to exceed seven thousand five hundred dollars (\$7,500), place on probation for a specific period of time with specific conditions or reprimand any professional engineer who is found by the board to have:

(1) practiced or offered to practice engineering in New Mexico in violation of the Engineering and Surveying Practice Act;

(2) attempted to use the license of another;

(3) given false or forged evidence to the board or to a board member for obtaining a license;

(4) falsely impersonated [~~any other~~] another licensee of like or different name;

(5) attempted to use an expired, suspended or revoked license;

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(6) falsely purported to be a professional engineer by claim, sign, advertisement or letterhead;

(7) violated the rules of professional responsibility for professional engineers adopted and promulgated by the board;

(8) been disciplined in another state for action that would constitute a violation of either or both the Engineering and Surveying Practice Act or the rules adopted by the board;

(9) been convicted of a felony; or

(10) procured, aided or abetted any violation of the provisions of the Engineering and Surveying Practice Act or the rules of the board.

B. Except as provided in Subsection C of Section 61-23-21 NMSA 1978, nothing in the Engineering and Surveying Practice Act shall prohibit the general use of the word "engineer", "engineered" or "engineering" so long as such words are not used in an offer to the public to perform engineering work as defined in Subsections F and H of Section 61-23-3 NMSA 1978.

C. The board may by rule establish the guidelines for the disposition of disciplinary cases involving specific types of violations. The guidelines may include minimum and maximum fines, periods of probation or conditions of probation or reissuance of a license.

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D. Failure to pay a fine levied by the board or to otherwise comply with an order issued by the board pursuant to the Uniform Licensing Act is a misdemeanor and shall be grounds for further action against the licensee by the board and for judicial sanctions or relief.

E. A person may prefer charges of fraud, deceit, gross negligence, incompetence or misconduct against a licensed professional engineer. The charges shall be in writing and shall be sworn to by the person making the charges and filed with the executive director of the board. All charges shall be referred to the engineering committee, acting for the board. No action that would have any of the effects specified in Subsection D, E or F of Section 61-1-3 NMSA 1978 may be initiated later than two years after the discovery by the board, but in no case shall an action be brought more than ten years after the completion of the conduct that constitutes the basis for the action. All charges, unless dismissed as unfounded, trivial, resolved by reprimand or settled informally, shall be heard in accordance with the provisions of the Uniform Licensing Act by the engineering committee acting for the board or by the board.

F. Persons making charges shall not be subject to civil or criminal suits; provided that the charges are made in good faith and are not frivolous or malicious.

G. The board or a board member may initiate proceedings pursuant to the provisions of this section in accordance with the provisions of the Uniform Licensing Act. Nothing in the Engineering and Surveying Practice Act shall

deny the right of appeal from the decision and order of the board in accordance with the provisions of the Uniform Licensing Act.

H. The board, for reasons it deems sufficient, may reissue a license to a person whose license has been revoked or suspended [~~provided that~~] if a majority of the members of the engineering committee, acting for the board, or of the board votes in favor of the reissuance. A new license bearing the original license number to replace a revoked, lost, destroyed or mutilated license may be issued subject to the rules of the board with payment of a fee.

I. A violation of any provision of the Engineering and Surveying Practice Act is a misdemeanor punishable upon conviction by a fine of not more than seven thousand five hundred dollars (\$7,500) or by imprisonment of no more than one year, or both.

J. The attorney general or district attorney of the proper district or special prosecutor retained by the board shall prosecute violations of the Engineering and Surveying Practice Act by a nonlicensee.

K. The practice of engineering in violation of the provisions of the Engineering and Surveying Practice Act shall be deemed a nuisance and may be restrained and abated by injunction without bond in an action brought in the name of the state by the district attorney or on behalf of the board by the

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attorney general or the special prosecutor retained by the board. Action shall be brought in the county where the violation occurs."

SECTION 88. Section 61-23-27.11 NMSA 1978 (being Laws 1993, Chapter 218, Section 32, as amended) is amended to read:

"61-23-27.11. SURVEYING--VIOLATIONS--DISCIPLINARY ACTIONS--PENALTIES--REISSUANCE OF LICENSES.--

A. In accordance with the Uniform Licensing Act, the board may suspend, refuse to renew or revoke the license, impose a fine not to exceed seven thousand five hundred dollars (\$7,500), place on probation for a specific period of time with specific conditions or reprimand a professional surveyor who is found by the board to have:

(1) practiced or offered to practice surveying in New Mexico in violation of the Engineering and Surveying Practice Act;

(2) attempted to use the license of another;

(3) given false or forged evidence to the board or to ~~any~~ a board member for obtaining a license;

(4) falsely impersonated ~~any other~~ another licensee of like or different name;

(5) attempted to use an expired, suspended or revoked license;

(6) falsely purported to be a professional surveyor by claim, sign, advertisement or letterhead;

(7) violated the rules of professional responsibility for professional surveyors adopted and promulgated by the board;

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(8) been disciplined in another state for action that would constitute a violation of either or both the Engineering and Surveying Practice Act or the rules adopted by the board pursuant to the Engineering and Surveying Practice Act;

(9) been convicted of a felony; or

(10) procured, aided or abetted any violation of the provisions of the Engineering and Surveying Practice Act or the rules adopted by the board.

B. The board may by rule and in accordance with the Uniform Licensing Act establish the guidelines for the disposition of disciplinary cases involving specific types of violations. Guidelines may include minimum and maximum fines, periods of probation or conditions of probation or reissuance of a license.

C. Failure to pay a fine levied by the board or to otherwise comply with an order issued by the board pursuant to the Uniform Licensing Act is a misdemeanor and shall be grounds for further action against the licensee by the board and for judicial sanctions or relief.

D. A person may prefer charges of fraud, deceit, gross negligence, incompetency or misconduct against a professional surveyor. Such charges shall be in writing, shall be sworn to by the person making them and shall be filed with the executive director of the board. No action that would have

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any of the effects specified in Subsection D, E or F of Section 61-1-3 NMSA 1978 may be initiated later than two years after the discovery by the board, but in no case shall such an action be brought more than ten years after the completion of the conduct that constitutes the basis for the action. All charges shall be referred to the professional surveying committee, acting for the board, or to the board. All charges, unless dismissed as unfounded, trivial, resolved by reprimand or settled informally, shall be heard in accordance with the provisions of the Uniform Licensing Act by the surveying committee, acting for the board, or by the board.

E. Persons making charges shall not be subject to civil or criminal suits [~~provided that~~] if the charges are made in good faith and are not frivolous or malicious.

F. The board or a board member may initiate proceedings pursuant to the provisions of this section in accordance with the provisions of the Uniform Licensing Act. Nothing in the Engineering and Surveying Practice Act shall deny the right of appeal from the decision and order of the board in accordance with the provisions of the Uniform Licensing Act.

G. The board, for reasons it deems sufficient, may reissue a license to a person whose license has been revoked or suspended; provided that a majority of the members of the surveying committee, acting for the board, or of the board votes in favor of reissuance. A new license bearing the original license number to replace a revoked, lost, destroyed or mutilated license may be issued subject to the rules of the

board with payment of a fee determined by the board.

H. A violation of any provision of the Engineering and Surveying Practice Act is a misdemeanor punishable upon conviction by a fine of not more than seven thousand five hundred dollars (\$7,500) or by imprisonment of no more than one year, or both.

I. The attorney general or district attorney of the proper district or special prosecutor retained by the board shall prosecute violations of the Engineering and Surveying Practice Act by a nonlicensee.

J. The practice of surveying in violation of the provisions of the Engineering and Surveying Practice Act shall be deemed a nuisance and may be restrained and abated by injunction without bond in an action brought in the name of the state by the district attorney or on behalf of the board by the attorney general or the special prosecutor retained by the board. Action shall be brought in the county in which the violation occurs."

SECTION 89. Section 61-24B-7 NMSA 1978 (being Laws 1985, Chapter 151, Section 7, as amended) is amended to read:

"61-24B-7. BOARD--POWERS AND DUTIES.--The board shall:

A. promulgate rules [~~necessary to effectuate~~] in accordance with the State Rules Act to implement the provisions of the Landscape Architects Act;

B. provide for the examination, registration and

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re-registration of applicants;

C. adopt and use a seal;

D. administer oaths and take testimony on matters within the board's jurisdiction;

E. grant, deny, renew, suspend or revoke certificates of registration to practice landscape architecture in accordance with the provisions of the Uniform Licensing Act for any cause stated in the Landscape Architects Act;

F. grant, deny, renew, suspend or revoke landscape architect in training certificates in accordance with the provisions of the Uniform Licensing Act for any cause stated in the Landscape Architects Act;

G. conduct hearings upon charges relating to discipline of a registrant or the denial, suspension or revocation of a certificate of registration; and

H. in cooperation with the state board of examiners for architects and the state board of licensure for professional engineers and surveyors, create a joint standing committee to be known as the "joint practice committee" to safeguard life, health and property and to promote the public welfare. The committee shall promote and develop the highest professional standards in design, planning and construction and the resolution of ambiguities concerning the professions. The composition of this committee and its powers and duties shall be in accordance with identical resolutions adopted by each board."

SECTION 90. Section 61-24B-9 NMSA 1978 (being Laws 1985, Chapter 151, Section 9, as amended) is amended to read:

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"61-24B-9. REGISTRATION OF LANDSCAPE ARCHITECTS--
EXAMINATIONS--EXEMPTIONS--EXPEDITED REGISTRATION.--

A. Applicants for certificates of registration shall be required to pass the board's examination for landscape architects. An applicant who passes the examination may be issued a certificate of registration to practice as a landscape architect.

B. The board shall conduct examinations of applicants for certificates of registration as landscape architects at least once each year. The examination shall determine the ability of the applicant to use and understand the theory and practice of landscape architecture and may be divided into such subjects as the board deems necessary.

C. An applicant who fails to pass the examination may reapply for the examination if the applicant complies with the rules established by the board.

D. The board [~~may~~] shall issue [~~a~~] an expedited certificate to practice as a landscape architect without an examination to an applicant who holds a current certificate of registration or license as a landscape architect issued by another [~~state if the standards of the other state are as stringent as those established by the board and~~] licensing jurisdiction if the applicant [~~meets the qualifications required of a landscape architect in this state~~] demonstrates that the person holds a valid, unrestricted license and is in

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good standing with the licensing board in the other licensing jurisdiction Hf11→~~and has practiced for at least two years immediately prior to application in New Mexico~~←Hf11. The board shall, as soon as practicable but no later than thirty days after an out-of-state registrant or licensee files an application for a license accompanied by required fees, process the application and issue an expedited certificate of registration in accordance with Section 61-1-31.1 NMSA 1978. The board by rule shall determine the states and territories of the United States and the District of Columbia from which it will not accept applications for expedited registration and foreign countries from which it will accept applications for expedited licensure. The board shall post on its website the list of disapproved licensing jurisdictions and the specific reasons for disapproval. The lists shall be reviewed annually to determine if amendments to the rule are warranted."

SECTION 91. Section 61-24B-15 NMSA 1978 (being Laws 1985, Chapter 151, Section 15) is amended to read:

"61-24B-15. BOARD--RULES [~~AND REGULATIONS~~].--The board shall make rules [~~and regulations necessary~~] in accordance with the State Rules Act to implement the provisions of the Landscape Architects Act in accordance with [~~the provisions of~~] the Uniform Licensing Act."

SECTION 92. Section 61-24D-1 NMSA 1978 (being Laws 2019, Chapter 239, Section 1) is amended to read:

"61-24D-1. SHORT TITLE.--[~~This act~~] Chapter 61, Article 24D NMSA 1978 may be cited as the "Home Inspector Licensing Act"."

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SECTION 93. Section 61-24D-3 NMSA 1978 (being Laws 2019, Chapter 239, Section 3) is amended to read:

"61-24D-3. NEW MEXICO HOME INSPECTORS BOARD--CREATED--
POWERS AND DUTIES.--

A. The "New Mexico home inspectors board" is created and is administratively attached to the regulation and licensing department.

B. The board shall consist of five members, appointed by the governor, who have been residents of the state for at least three consecutive years immediately prior to their appointment. Three members shall be home inspectors. One member shall be a real estate qualifying or associate broker licensed in accordance with Chapter 61, Article 29 NMSA 1978, and one member shall be a member of the public who has never been licensed as a home inspector or real estate broker. No more than one member shall be a resident of any one county in the state. The initial home inspector members appointed shall demonstrate that they have been actively and lawfully engaged in home inspections for at least twenty-four months prior to the effective date of the Home Inspector Licensing Act and have met the requirements of Paragraphs (1) through (4) of Subsection A of Section [~~6 of the Home Inspector Licensing Act~~] 61-24D-6 NMSA 1978. The initial home inspector members appointed shall comply with Paragraph (6) of Subsection A of Section [~~6 of the Home Inspector Licensing Act~~] 61-24D-6 NMSA

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1978 within six months of the effective date of the licensing examination rule promulgated by the board in accordance with the State Rules Act. After the board is initially established, any replacement of a home inspector member shall be a licensee.

C. Board members shall serve for five years or until their successors are appointed and qualified. The governor may remove a member with or without cause. In the event of a vacancy, the governor shall appoint a member to complete the unexpired term. The initial board members appointed shall serve staggered terms from the date of their appointment as follows:

- (1) two members for three-year terms;
- (2) two members for two-year terms; and
- (3) one member for a one-year term.

D. The board shall elect annually from among its members a chair and other officers as the board determines. The board shall meet at times and places as fixed by the board. A majority of the board constitutes a quorum.

E. Members of the board may receive per diem and mileage as provided in the Per Diem and Mileage Act but shall receive no other compensation, perquisite or allowance.

F. The board shall possess all powers and perform all duties prescribed by the Home Inspector Licensing Act and as otherwise provided by law and may ~~[make and enforce rules]~~ promulgate rules in accordance with the State Rules Act to carry out the provisions of ~~[that]~~ the Home Inspector Licensing Act.

G. Pursuant to the provisions of the Home Inspector

Licensing Act, the board shall:

(1) adopt rules and procedures necessary to administer and enforce the provisions of the Home Inspector Licensing Act;

(2) adopt and publish a code of ethics and standards of practice for persons licensed under the Home Inspector Licensing Act;

(3) issue, renew, suspend, modify or revoke licenses to home inspectors [~~pursuant to the provisions of the Home Inspector Licensing~~] in accordance with the Uniform Licensing Act;

(4) establish standards for the training, experience and continuing education requirements of the Home Inspector Licensing Act;

(5) establish the amount and administer the fees charged for examinations, initial licensure, license renewals, reinstatement of revoked or suspended licenses, reactivation of inactive or expired licenses, criminal background checks and other services pursuant to the provisions of the Home Inspector Licensing Act;

(6) adopt and approve a licensing examination, which may be administered by a nationally accepted testing service as determined by the board;

(7) conduct state and criminal background checks on all applicants for a license;

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(8) maintain a list of the names and addresses of all licensees and of all persons whose licenses have been suspended or revoked within that year, together with such other information relative to the enforcement of the provisions of the Home Inspector Licensing Act;

(9) maintain a statement of all funds received and a statement of all disbursements;

(10) mail copies of statements to any person in this state upon request; and

(11) perform other functions and duties as may be necessary to administer or carry out the provisions of the Home Inspector Licensing Act.

~~[H. Prior to a final action on a proposed change or amendment to the board's rules, the board may publish notice of the proposed action in its official publication, distribute the publication to each active licensee and give the time and place for a public hearing on the proposed changes. The hearing shall be held at least thirty days prior to a proposed final action. Changes or amendments to the rules shall be filed in accordance with the procedures of the State Rules Act and shall become effective thirty days after notification to all active licensees of the filing of the changes or amendments.]"~~

SECTION 94. Section 61-27B-5 NMSA 1978 (being Laws 1993, Chapter 212, Section 5, as amended) is amended to read:

"61-27B-5. ADMINISTRATION OF ACT--RULES.--

A. The department shall enforce and administer the provisions of the Private Investigations Act in accordance with the Uniform Licensing Act.

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B. The department shall keep a record of each individual licensee.

C. The department shall ~~[adopt]~~ promulgate rules in accordance with the State Rules Act and enforce those rules necessary to carry out the provisions of the Private Investigations Act, including establishing professional ethical standards.

D. The department shall ~~[adopt]~~ promulgate rules regarding:

(1) licensing private investigators, private investigations managers, private investigation companies, private patrol operators, private patrol operations managers, private patrol employees and polygraph examiners;

(2) registering private investigations employees, security guards and private patrol employees;

(3) establishing minimum training and educational standards for licensure and registration;

(4) establishing continuing education requirements;

(5) establishing and operating a branch office;

(6) creating a policy on reciprocity with other ~~[states and territories]~~ licensing jurisdictions of the United States;

(7) providing permits for security guards for

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special events; and

(8) conducting background investigations."

SECTION 95. 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;

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

(5) ~~[adopt and file]~~ promulgate rules in accordance with ~~[the Uniform Licensing Act and]~~ the State Rules Act ~~[rules]~~ to carry out the provisions of the 1999 Public Accountancy Act, including rules governing the administration and enforcement of the 1999 Public Accountancy Act and the conduct of certificate and permit holders.

B. The board shall:

(1) maintain a registry of the names and addresses of certificate and permit holders; ~~[and]~~

(2) develop, in conjunction with the

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department of public safety, rules requiring a criminal history background check of an applicant for initial or reciprocal certification in New Mexico as provided for in the 1999 Public Accountancy Act; and

(3) conduct disciplinary or licensure proceedings in accordance with the Uniform Licensing Act."

SECTION 96. Section 61-29-4 NMSA 1978 (being Laws 1959, Chapter 226, Section 3, as amended) is amended to read:

"61-29-4. CREATION OF COMMISSION--POWERS AND DUTIES.--

~~[There is created]~~ A. The "New Mexico real estate commission" is created. The commission shall be appointed by the governor and shall consist of five members who shall have been residents of the state for three consecutive years immediately prior to their appointment, four of whom shall have been associate brokers or qualifying brokers licensed in New Mexico and one of whom shall be a member of the public who has never been licensed as an associate broker or a qualifying broker; provided that not more than one member shall be from any one county within the state. The members of the commission shall serve for a period of five years or until their successors are appointed and qualified. The governor may remove a member for cause. In the event of vacancies, the governor shall appoint members to complete unexpired terms.

B. The commission shall possess all the powers and perform all the duties prescribed by Chapter 61, Article 29

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NMSA 1978 and as otherwise provided by law, and it is expressly vested with power and authority to ~~[make]~~ promulgate rules in accordance with the State Rules Act and enforce those rules to carry out the provisions of that article. ~~[Prior to a final action on a proposed change or amendment to the rules of the commission, the commission may publish notice of the proposed action in its official publication, distribute the publication to each active licensee and give the time and place for a public hearing on the proposed changes. The hearing shall be held at least thirty days prior to a proposed final action. Changes or amendments to the rules shall be filed in accordance with the procedures of the State Rules Act and shall become effective thirty days after notification to all active licensees of the filing of the changes or amendments.]~~"

SECTION 97. Section 61-29-12 NMSA 1978 (being Laws 1959, Chapter 226, Section 11, as amended) is amended to read:

"61-29-12. REFUSAL, SUSPENSION OR REVOCATION OF LICENSE FOR CAUSES ENUMERATED.--

A. In accordance with the Uniform Licensing Act, the commission may refuse to issue a license or may suspend, revoke, limit or condition a license if the applicant or licensee has, by false or fraudulent representations, obtained a license or, in performing or attempting to perform any of the actions specified in Chapter 61, Article 29 NMSA 1978, an applicant or licensee has:

- (1) made a substantial misrepresentation;
- (2) pursued a continued and flagrant course of misrepresentation; made false promises through agents,

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salespersons, advertising or otherwise; or used any trade name or insignia of membership in any real estate organization of which the licensee is not a member;

(3) paid or received a rebate, profit, compensation or commission to or from any unlicensed person, except the licensee's principal or other party to the transaction, and then only with that principal's written consent;

(4) represented or attempted to represent a qualifying broker other than a qualifying broker with whom the licensee is associated without the express knowledge and consent of that qualifying broker;

(5) failed, within a reasonable time, to account for or to remit any money coming into the licensee's possession that belongs to others, commingled funds of others with the licensee's own or failed to keep funds of others in an escrow or trustee account or failed to furnish legible copies of all listing and sales contracts to all parties executing them;

(6) been convicted in any court of competent jurisdiction of a felony or any offense involving moral turpitude;

(7) employed or compensated, directly or indirectly, a person for performing any of the acts regulated by Chapter 61, Article 29 NMSA 1978 who is not a licensed

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qualifying broker or an associate broker; provided, however, that a qualifying broker may pay a commission to a qualifying broker of another state as provided in Section 61-29-16.1 NMSA 1978;

(8) failed, if a qualifying broker, to place as soon after receipt as is practicably possible, after securing signatures of all parties to the transaction, any deposit money or other money received by the qualifying broker in a real estate transaction in a custodial, trust or escrow account, maintained by the qualifying broker in a bank or savings and loan institution or title company authorized to do business in this state, in which the funds shall be kept until the transaction is consummated or otherwise terminated, at which time a full accounting of the funds shall be made by the qualifying broker. Records relative to the deposit, maintenance and withdrawal of the funds shall contain information as may be prescribed by the rules of the commission. Nothing in this paragraph prohibits a qualifying broker from depositing nontrust funds in an amount not to exceed the required minimum balance in each trust account so as to meet the minimum balance requirements of the bank necessary to maintain the account and avoid charges. The minimum balance deposit shall not be considered commingling and shall not be subject to levy, attachment or garnishment. This paragraph does not prohibit a qualifying broker from depositing any deposit money or other money received by the qualifying broker in a real estate transaction with another cooperating broker who shall in turn comply with this paragraph;

(9) failed, if an associate broker, to place as soon after receipt as is practicably possible in the custody of the associate broker's qualifying broker, after securing signatures of all parties to the transaction, any deposit money or other money entrusted to the associate broker by any person dealing with the associate broker as the representative of the qualifying broker;

(10) violated a provision of Chapter 61, Article 29 NMSA 1978 or a rule promulgated by the commission;

(11) committed an act, whether of the same or different character from that specified in this subsection, that is related to dealings as a qualifying broker or an associate broker and that constitutes or demonstrates bad faith, incompetency, untrustworthiness, impropriety, fraud, dishonesty, negligence or any unlawful act; or

(12) been the subject of disciplinary action as a licensee while licensed to practice real estate in another jurisdiction, territory or possession of the United States or another country.

B. An unlawful act or violation of Chapter 61, Article 29 NMSA 1978 by an associate broker, employee, partner or associate of a qualifying broker shall not be cause for the revocation of a license of the qualifying broker unless it appears to the satisfaction of the commission that the qualifying broker had guilty knowledge of the unlawful act or

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violation."

SECTION 98. Section 61-29-20 NMSA 1978 (being Laws 1980, Chapter 82, Section 1) is amended to read:

"61-29-20. SHORT TITLE.--Sections [~~1 through 10 of this act~~] 61-29-20 through 61-29-29 NMSA 1978 may be cited as the "Real Estate Recovery Fund Act"."

SECTION 99. Section 61-30-7 NMSA 1978 (being Laws 1990, Chapter 75, Section 7, as amended) is amended to read:

"61-30-7. BOARD--POWERS--DUTIES.--The board shall:

A. [~~adopt~~] promulgate rules [~~necessary~~] in accordance with the State Rules Act to implement the provisions of the Real Estate Appraisers Act;

B. establish educational programs and research projects related to the appraisal of real estate;

C. establish the administrative procedures for processing applications and issuing registrations, licenses and certificates to persons who qualify to be real estate appraiser trainees, state licensed residential real estate appraisers or state certified real estate appraisers;

D. receive, review and approve applications for real estate appraiser trainees, state licensed residential real estate appraisers and each category of state certified real estate appraisers;

E. define the extent and type of educational experience, appraisal experience and equivalent experience that will meet the requirements for registration, licensing and certification pursuant to the Real Estate Appraisers Act after considering generally recognized appraisal practices and set

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minimum requirements for education and experience;

F. provide for continuing education programs for the renewal of registrations, licenses and certification that will meet the requirements provided in the Real Estate Appraisers Act and set minimum requirements;

G. adopt standards to define the education programs that will meet the requirements of the Real Estate Appraisers Act and that will encourage conducting programs at various locations throughout the state;

H. adopt standards for the development and communication of real estate appraisals provided in the Real Estate Appraisers Act and adopt rules explaining and interpreting the standards after considering generally recognized appraisal practices;

I. adopt a code of professional responsibility for real estate appraiser trainees, state licensed residential real estate appraisers and state certified real estate appraisers;

J. comply with annual reporting requirements and other requirements set forth in the federal real estate appraisal reform amendments;

K. collect and transmit annual registry fees from ~~[individuals]~~ persons who perform or seek to perform appraisals in federally related transactions and from an appraisal management company that either has registered with the board or operates as a subsidiary of a federally regulated financial

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institution;

L. maintain a registry of the names and addresses of the persons who hold current registrations, licenses and certificates issued under the Real Estate Appraisers Act;

M. establish procedures for disciplinary action in accordance with the Uniform Licensing Act against any applicant or holder of a registration, license or certificate for violations of the Real Estate Appraisers Act and any rules adopted pursuant to provisions of that act;

N. register and supervise appraisal management companies and submit additional information about the appraisal management company to the appraisal subcommittee's national registry;

O. recognize appraiser certifications and licenses from states whose appraisal program is found to be consistent with Title 11 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as determined by the appraisal subcommittee; and

P. perform such other functions and duties as may be necessary to carry out the provisions of the Real Estate Appraisers Act."

SECTION 100. Section 61-32-6 NMSA 1978 (being Laws 1993, Chapter 204, Section 6, as amended) is amended to read:

"61-32-6. BOARD POWERS.--

A. In addition to any other authority provided by law, the board has the power to:

(1) ~~[adopt in accordance with the provisions of the Uniform Licensing Act, and file]~~ promulgate rules in

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accordance with the State Rules Act [~~rules~~] that are necessary to carry out the provisions of the Funeral Services Act;

(2) [~~adopt~~] promulgate rules implementing continuing education requirements;

(3) conduct hearings upon charges relating to the discipline of licensees and take administrative actions pursuant to [~~Section 61-1-3 NMSA 1978~~] the Uniform Licensing Act;

(4) except as provided in Section 61-1-34 NMSA 1978, establish reasonable fees to carry out the provisions of the Funeral Services Act;

(5) provide for investigations necessary to determine violations of the Funeral Services Act;

(6) establish committees as the board deems necessary for carrying out the provisions of the Funeral Services Act;

(7) apply for injunctive relief to enforce the provisions of the Funeral Services Act or to restrain any violation of that act; and

(8) conduct criminal background checks on applicants for licensure.

B. No action or other legal proceedings for damages shall be instituted against the board, any board member or employee of the board for any act performed in good faith and in the intended performance of any power or duty granted under

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the Funeral Services Act or for any neglect or default in the good faith performance or exercise of any such power or duty."

SECTION 101. Section 61-33-3 NMSA 1978 (being Laws 1973, Chapter 394, Section 3, as amended) is amended to read:

"61-33-3. ADMINISTRATION--ENFORCEMENT.--

A. The administration and enforcement of the Utility Operators Certification Act is vested in the department.

B. The department shall:

(1) approve and accredit schools and training programs designed to educate and qualify persons for certification in one of the classifications of public water supply system operators or public wastewater facility operators;

(2) prepare and administer written and practical examinations, based on nationally accepted standards, for certification of applicants as operators for one of the facility classifications established pursuant to Subsection A of Section 61-33-4 NMSA 1978;

(3) enter into agreements, contracts or cooperative arrangements with persons; ~~and~~

(4) receive and accept financial and technical assistance;

(5) promulgate rules in accordance with the State Rules act; and

(6) issue, renew, suspend or revoke licenses or discipline a licensee in accordance with the Uniform Licensing Act."

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SECTION 102. Section 61-34-8 NMSA 1978 (being Laws 2007, Chapter 248, Section 8) is amended to read:

"61-34-8. BOARD POWERS AND DUTIES.--

A. The board shall:

(1) administer and enforce provisions of the Signed Language Interpreting Practices Act;

(2) promulgate rules in accordance with the State Rules Act setting forth the qualifications of applicants for licensure and the provisions for the administration of examinations and the issuance, renewal, suspension or revocation of licenses;

(3) evaluate the qualifications of applicants for licensure and issue licenses;

(4) promulgate rules [~~pursuant to the State Rules Act~~] to effectively carry out and enforce the provisions of the Signed Language Interpreting Practices Act;

(5) submit an annual budget for each fiscal year to the department;

(6) maintain a record of all proceedings; and

(7) provide an annual report to the governor.

B. The board may refuse, suspend or revoke a license of an interpreter, conduct investigations, issue subpoenas and hold hearings as provided in the Uniform Licensing Act."

SECTION 103. Section 61-37-12 NMSA 1978 (being Laws

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2020, Chapter 46, Section 12) is amended to read:

"61-37-12. FEES [~~AND ADMINISTRATIVE PENALTIES~~] RETAINED BY THE DIVISION.--All fees [~~and administrative penalties~~] collected by the division pursuant to the Tobacco Products Act shall be deposited into the tobacco products administration fund."

HGEIC→~~SECTION 104. Section 61-37-13 NMSA 1978 (being Laws 2020, Chapter 46, Section 13) is amended to read:~~

~~"61-37-13. HEARING PROCEDURE.--If the division suspends or revokes a license or imposes an administrative penalty against a licensee, the licensee shall be entitled to a hearing pursuant to the [rules promulgated by the division] Uniform Licensing Act. The hearing shall be conducted by the director or a hearing officer appointed by the director and shall be held in the county in which the licensee is located. Hearings shall be open to the public. Subpoenas shall be issued and enforced in accordance with the provisions of Section [23 of the Tobacco Products Act] 61-37-23 NMSA 1978."~~←HGEIC

SECTION HGEIC→105.←HGEIC HGEIC→104.←HGEIC TEMPORARY PROVISION--RULE CHANGES TO COMPLY WITH ACT.--A board that is required by this act to change its licensing provisions to allow for new or different expedited licensure shall have rules in place and operational by January 1, 2023.

SECTION HGEIC→106.←HGEIC HGEIC→105.←HGEIC RECOMPILATION.--

A. Sections 61-6-7.3 and 61-6-7.4 NMSA 1978 (being Laws 1997, Chapter 187, Section 4 and Laws 2017, Chapter 103, Section 6) are recompiled as Sections 61-6C-5 and 61-6C-6 NMSA

1978.

B. Sections 61-6-10.2 through 61-6-10.7, 61-6-10.10 and 61-6-10.11 NMSA 1978 (being Laws 2001, Chapter 311, Sections 2 through 7 and 10 and Laws 2015, Chapter 52, Section 3, as amended) are recompiled as Sections 61-6D-2 through 61-6D-7, 61-6D-9 and 61-6D-10 NMSA 1978.

C. Sections 61-36-2, 61-36-4 and 61-36-5 NMSA 1978 (being Laws 2017, Chapter 136, Sections 2, 4 and 5, as amended) are recompiled as Sections 61-3B-2, 61-3B-4 and 61-3B-5 NMSA 1978.

SECTION HGEIC→107.←HGEIC HGEIC→106.←HGEIC REPEAL.--

A. Sections 61-1-27 and 61-1-30 NMSA 1978 (being Laws 1957, Chapter 247, Section 27 and Laws 1971, Chapter 54, Section 4, as amended) are repealed.

B. Section 61-6-7 NMSA 1978 (being Laws 1973, Chapter 361, Section 3, as amended) is repealed.

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