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HOUSE BILL 309

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Jeannette O. Wallace

FOR THE LEGISLATIVE FINANCE COMMITTEE

AN ACT

RELATING TO LICENSURE; AMENDING ATHLETIC TRAINER STANDARDS;
EXPANDING BOARD DUTIES; CHANGING LICENSURE, EXAMINATION AND
PROVISIONAL PERMIT REQUIREMENTS.

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

Section 1. Section 61-14D-7 NMSA 1978 (being Laws 1993,
Chapter 325, Section 7) is amended to read:

"61-14D-7. BOARD CREATED.--

A. There is created the "athletic trainer practice
board".

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

C. The board shall consist of five members who are
United States citizens and have been New Mexico residents for
at least three years prior to their appointment. Members of

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1 the board shall be appointed by the governor for staggered
2 terms of three years each [~~except that the initial board shall~~
3 ~~be appointed so that the term of one member expires June 30,~~
4 ~~1994, the terms of two members expire June 30, 1995 and the~~
5 ~~terms of two members expire June 30, 1996~~]. Three of the
6 members shall be athletic trainers licensed [~~under~~] pursuant to
7 provisions of the Athletic Trainer Practice Act [~~with at least~~
8 ~~three years experience in the profession in the state of New~~
9 ~~Mexico~~]. One member shall be [~~from each district and at least~~
10 ~~one member shall be~~] employed by a high school. Two members
11 shall represent the public and have no financial interest,
12 direct or indirect, in the occupation regulated. One public
13 member shall be from any area north of interstate 40 in the
14 state and one public member shall be from any area south of
15 interstate 40 in the state. Board members shall reside in
16 separate districts. Board members shall serve until their
17 successors have been appointed.

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

21 E. A simple majority of the board members currently
22 serving shall constitute a quorum of the board.

23 F. The board shall meet at least once a year and at
24 such other times as it deems necessary.

25 G. No board member shall serve more than two

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1 consecutive terms. Any member failing to attend three
2 meetings, after proper notice, shall automatically be
3 recommended to be removed as a board member, unless excused for
4 reasons set forth in board regulations.

5 H. The board shall elect a chairman and other
6 officers as deemed necessary to administer its duties."

7 Section 2. Section 61-14D-8 NMSA 1978 (being Laws 1993,
8 Chapter 325, Section 8) is amended to read:

9 "61-14D-8. DEPARTMENT DUTIES.--The department, in
10 consultation with the board, shall:

11 A. ~~[evaluate the qualifications of applicants and]~~
12 process applications and conduct and review [any] the required
13 ~~[examination results of applicants]~~ examinations;

14 B. issue licenses and provisional permits to
15 applicants who meet the requirements of the Athletic Trainer
16 Practice Act;

17 C. administer, coordinate and enforce the
18 provisions of the Athletic Trainer Practice Act and investigate
19 persons engaging in practices ~~[which]~~ that may violate the
20 provisions of that act;

21 D. conduct any required examinations of applicants;

22 E. hire staff as may be necessary to carry out the
23 actions of the board; ~~[and]~~

24 F. maintain board records, including financial
25 records; and

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

3 Section 3. Section 61-14D-9 NMSA 1978 (being Laws 1993,
4 Chapter 325, Section 9) is amended to read:

5 "61-14D-9. BOARD POWERS AND DUTIES.--~~[In addition to any~~
6 ~~other authority provided by law]~~ The board ~~[shall have the~~
7 ~~authority to]~~:

8 A. shall select and provide for the administration
9 of examinations for licensure no less often than semiannually;

10 B. shall establish the passing scores for the New
11 Mexico laws and regulation examinations;

12 C. shall determine eligibility of individuals for
13 licensure;

14 D. shall set fees for administrative services and
15 licenses as authorized by the Athletic Trainer Practice Act,
16 and authorize all disbursements necessary to carry out the
17 provisions of that act;

18 E. shall review license applications and recommend
19 approval or disapproval;

20 ~~[A.]~~ F. may adopt and file, in accordance with the
21 State Rules Act, rules and regulations necessary to carry out
22 the provisions of the Athletic Trainer Practice Act ~~[in~~
23 ~~accordance with the provisions of the Uniform Licensing Act,~~
24 ~~including the procedures for an appeal of an examination~~
25 ~~failure~~

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- 1 ~~B. establish fees;~~
2 ~~C. approve administration of exams;~~
3 ~~D. adopt rules implementing continuing education~~
4 ~~requirements];~~
5 G. may take any disciplinary action allowed by and
6 in accordance with the provisions of the Uniform Licensing Act;
7 ~~[E.]~~ H. may conduct hearings upon charges relating
8 to the discipline of licensees, including the denial,
9 suspension or revocation of a license; ~~[and]~~
10 ~~[F.]~~ I. may adopt a code of ethics; and
11 J. may require and establish criteria for
12 continuing education."

13 Section 4. Section 61-14D-10 NMSA 1978 (being Laws 1993,
14 Chapter 325, Section 10) is amended to read:

15 "61-14D-10. REQUIREMENTS FOR LICENSURE.--The ~~[department]~~
16 board shall issue a license to practice as an athletic trainer
17 to any person who files a completed application, accompanied by
18 the required fees and documentation and who submits
19 satisfactory evidence that the applicant:

20 A. ~~[has completed an athletic training curriculum~~
21 ~~approved by the national athletic trainers association or]~~ has
22 completed a baccalaureate degree; ~~[and an approved internship~~
23 ~~of at least fifteen hundred clinical hours from an accredited~~
24 ~~college or university~~

25 ~~B. has submitted a letter of recommendation from~~

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1 ~~either an athletic trainer licensed in New Mexico or a member~~
2 ~~of the national athletic trainers association;~~

3 ~~G. submits proof of current competence]~~ B. is
4 currently competent in cardiopulmonary resuscitation and in the
5 use of automated electrical defibrillator units; and

6 ~~[D.]~~ C. demonstrates professional competence by
7 ~~[satisfactorily]~~ passing ~~[a]~~ the national certification
8 examination recognized by the board and an examination on New
9 Mexico laws and regulations pertaining to athletic trainers
10 prescribed by the board."

11 Section 5. Section 61-14D-11 NMSA 1978 (being Laws 1993,
12 Chapter 325, Section 11) is amended to read:

13 "61-14D-11. EXAMINATIONS.--Applicants shall demonstrate
14 professional competency by passing the New Mexico laws and
15 regulations examination. The board shall establish the board-
16 approved examinations application deadline and the requirements
17 for re-examination if the applicant has failed the examination.

18 ~~[A. If there are applicants for examinations,~~
19 ~~written examinations shall be held at least twice each year on~~
20 ~~a date and at a location established by the department.~~
21 ~~Applicants who have been found to meet the education and~~
22 ~~experience requirements for licensure shall be scheduled for~~
23 ~~the next examination following the filing of the application.~~
24 ~~The board shall establish by rule the examination application~~
25 ~~deadline and other rules relating to taking and retaking of~~

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1 ~~licensure examinations.~~

2 ~~B. The board shall determine the passing grade on~~
3 ~~examinations.~~

4 ~~C. The board shall require each applicant to pass~~
5 ~~an examination on the state laws and regulations pertaining to~~
6 ~~the practice of athletic training.~~

7 ~~D. The board may accept examinations which are used~~
8 ~~for national certification or other examinations administered~~
9 ~~by the department.]"~~

10 Section 6. Section 61-14D-12 NMSA 1978 (being Laws 1993,
11 Chapter 325, Section 12) is amended to read:

12 "61-14D-12. PROVISIONAL PERMIT.--

13 ~~[A. Prior to taking any other examinations, an~~
14 ~~applicant for licensure who has passed the jurisprudence~~
15 ~~examination may obtain a provisional permit to engage in the~~
16 ~~practice of athletic training, provided that the applicant~~
17 ~~meets all the requirements for licensure except completion of~~
18 ~~the professional knowledge examination.]~~

19 A. An applicant for licensure who has passed the
20 New Mexico state law and regulations examination may obtain a
21 provisional permit to engage in the practice of athletic
22 training; provided that the applicant meets all licensure
23 requirements except for passing the national certification exam
24 for athletic trainers. The applicant must provide proof of
25 registration to take the national certification examination.

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1 B. The provisional permit is valid until the
2 results of the ~~[next scheduled examination on professional~~
3 ~~knowledge are available]~~ national certification examination
4 have been received in the board office.

5 C. If the applicant should fail or not take the
6 national certification examination, upon proof of re-
7 registration for the national certification examination, the
8 applicant will be issued a second provisional permit. No more
9 than two provisional permits ~~[may]~~ shall be issued to an
10 individual ~~[and no third provisional permit shall be issued to~~
11 ~~an applicant who has previously failed the professional~~
12 ~~knowledge examination]."~~

13 Section 7. Section 61-14D-13 NMSA 1978 (being Laws 1993,
14 Chapter 325, Section 13) is amended to read:

15 "61-14D-13. LICENSE RENEWAL.--

16 A. Each licensee shall renew his license annually
17 ~~[as provided by regulation]~~ by submitting a renewal application
18 on a form provided by the board.

19 B. The board may require proof of continuing
20 education, ~~[and proof of]~~ current cardiopulmonary resuscitation
21 certification and certification in the use of automated
22 electrical defibrillator units as a requirement for renewal.

23 C. If a license is not renewed by the expiration
24 date, the license will be considered expired and the licensee
25 shall refrain from practicing. A licensee may renew a license

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1 within the allotted grace period by submitting to the board
2 payment of the renewal fee and late fee and proof of compliance
3 with all renewal requirements. Upon receipt of payment and
4 proof of meeting any continuing education requirements by the
5 board, the licensee may resume practice. Failure to receive
6 renewal notice and application for renewal of license from the
7 board does not excuse a licensed athletic trainer from the
8 requirements for renewal.

9 D. A license granted by the board shall
10 automatically expire if the licensee fails to apply for the
11 renewal license provided for in this section within thirty days
12 of the renewal deadline. Reinstatement of an expired license
13 will require the licensee to reapply and meet all current
14 standards for licensure."

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

17 "61-14D-14. FEES.--The board shall establish a schedule
18 of reasonable fees for applications, licenses, provisional
19 permits, renewal of licenses, placement on inactive status and
20 necessary administrative fees and initial prorated licensing
21 fees [~~may be prorated~~]."

22 Section 9. Section 61-14D-16 NMSA 1978 (being Laws 1993,
23 Chapter 325, Section 16) is amended to read:

24 "61-14D-16. DISCIPLINARY PROCEEDINGS--JUDICIAL REVIEW--
25 APPLICATION OF UNIFORM LICENSING ACT.--

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1 A. In accordance with the provisions of the Uniform
2 Licensing Act, the board may deny, revoke or suspend any
3 license held or applied for under the Athletic Trainer Practice
4 Act upon findings by the board that the licensee or applicant:

5 (1) is guilty of fraud, [~~or~~] deceit or
6 misrepresentation in procuring or attempting to procure a
7 license provided for in the Athletic Trainer Practice Act;

8 (2) has been convicted of a felony. A
9 certified copy of the record of conviction shall be conclusive
10 evidence of such conviction;

11 (3) is guilty of incompetence;

12 (4) is guilty of unprofessional conduct;

13 (5) is guilty of dispensing, administering,
14 distributing or using a controlled substance, as defined in the
15 Controlled Substances Act, or is addicted to any vice to such a
16 degree that it renders him unfit to practice as an athletic
17 trainer;

18 (6) has violated any provisions of the
19 Athletic Trainer Practice Act;

20 (7) is guilty of willfully or negligently
21 practicing beyond the scope of athletic training as defined in
22 the Athletic Trainer Practice Act;

23 (8) is guilty of aiding or abetting the
24 practice of athletic training by a person not licensed by the
25 board;

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(9) is guilty of practicing without a provisional permit or license in violation of the Athletic Trainer Practice Act and its regulations; or

(10) has had a license, certificate or registration to practice as an athletic trainer revoked, suspended or denied in any jurisdiction, territory or possession of the United States or another country for actions of the licensee similar to acts described in this subsection.

A certified copy of the record of the jurisdiction taking such disciplinary action shall be conclusive evidence of the revocation, suspension or denial.

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

C. Any person filing a sworn complaint shall be immune from liability arising out of civil action, provided the complaint is filed in good faith and without actual malice."