

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

SENATE BILL 477

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Michael S. Sanchez

AN ACT

RELATING TO LONG-TERM CARE; CREATING THE LONG-TERM CARE ADMINISTRATORS ACT; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978; CREATING DEFINITIONS.

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

Section 1. Section 61-13-1 NMSA 1978 (being Laws 1970, Chapter 61, Section 1) is amended to read:

"61-13-1. SHORT TITLE. -- ~~[This act]~~ Chapter 61, Article 13 NMSA 1978 may be cited as the "~~[Nursing Home]~~ Long-Term Care Administrators Act". "

Section 2. Section 61-13-2 NMSA 1978 (being Laws 1970, Chapter 61, Section 2, as amended) is amended to read:

"61-13-2. DEFINITIONS. -- As used in the ~~[Nursing Home]~~ Long-Term Care Administrators Act:

A. "adult residential care facility" means a

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 health facility licensed by the department of health pursuant
2 to Section 24-1-5 NMSA 1978 as a shelter care home or a
3 boarding home not under the control of an institution of
4 higher learning;

5 B. "adult residential care facility administrator"
6 means a person who is responsible for planning, organizing,
7 directing and controlling the operation of an adult
8 residential care facility;

9 ~~[A.]~~ C. "board" means the [board of nursing home]
10 long-term care administrators board;

11 D. "long-term care" means care required to be
12 provided under state or federal law in licensed adult
13 residential care facilities or nursing homes;

14 E. "long-term care administrator" means a person
15 licensed by the state as an adult residential care facility
16 administrator or a nursing home administrator;

17 F. "long-term care facility" means an adult
18 residential care facility or a nursing home;

19 ~~[B.]~~ G. "nursing home administrator" means [any
20 individual] a person who is responsible for planning,
21 organizing, directing and controlling the operation of a
22 nursing home or who shares such functions with one or more
23 persons in operating a nursing home;

24 ~~[C.]~~ H. "nursing home" means [any] a nursing
25 institution or facility required to be licensed [under]

underscored material = new
[bracketed material] = delete

1 pursuant to state law as a nursing facility by the public
2 health division of the department of health, whether
3 proprietary or nonprofit, including skilled nursing home
4 facilities, and whether a separate entity or a part of a
5 medical institutional facility; and

6 ~~[D-]~~ I. "practice of ~~[nursing-home]~~ long-term care
7 administration" means the planning, organizing, directing and
8 control of the operation of a nursing home or an adult
9 residential care facility. "

10 Section 3. Section 61-13-3 NMSA 1978 (being Laws 1974,
11 Chapter 78, Section 35) is amended to read:

12 "61-13-3. CRIMINAL OFFENDER'S CHARACTER EVALUATION. -- The
13 provisions of the Criminal Offender Employment Act shall
14 govern any consideration of criminal records required or
15 permitted by the ~~[Nursing Home Administration]~~ Long-Term Care
16 Administrators Act. "

17 Section 4. Section 61-13-4 NMSA 1978 (being Laws 1970,
18 Chapter 61, Section 3, as amended) is amended to read:

19 "61-13-4. ~~[BOARD OF NURSING HOME]~~ LONG-TERM CARE
20 ADMINISTRATORS BOARD. --

21 A. There is created the "~~[board of nursing home]~~
22 long-term care administrators board", consisting of ~~[seven]~~
23 eleven members appointed by the governor to three-year terms
24 staggered so that no more than ~~[three]~~ four terms expire in
25 any one year. Three members of the board shall be nursing

underscored material = new
[bracketed material] = delete

1 home administrators licensed and practicing under the [~~Nursing~~
2 ~~Home~~] Long-Term Care Administrators Act for a minimum of five
3 years; [~~and who have never been disciplined by the board~~] one
4 member shall be an adult residential care facility
5 administrator of a health facility with a capacity of more
6 than fifteen beds and one member shall be an adult residential
7 care facility administrator of a health facility with a
8 capacity of fifteen or fewer beds, neither of whom have been
9 disciplined by the board; one member shall be a practicing
10 physician licensed in this state; and [~~three~~] five members
11 shall be from the public who have no significant financial
12 interest, direct or indirect, in the [~~nursing-home~~] long-term
13 care industry.

14 B. Within ninety days of a vacancy, the governor
15 shall appoint a person to fill the unexpired portion of the
16 term. Board members shall be citizens of the United States
17 and residents of the state, and not more than one member shall
18 be an employee of any state or other public agency.

19 C. On the effective date of the Long-Term Care
20 Administrators Act, members of the board of nursing home
21 administrators are appointed to the long-term care
22 administrators board for terms equal to the time remaining on
23 their appointment under the Nursing Home Administrators Act. "

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

. 135898. 1

underscored material = new
[bracketed material] = delete

1 "61-13-6. DUTIES OF THE BOARD. --It is the duty of the
2 board to:

3 A. formulate, adopt and regularly revise such
4 rules [~~and regulations~~] not inconsistent with law as may be
5 necessary to adopt and enforce standards for licensing
6 [~~nursing home~~] long-term care administrators and to carry into
7 effect the provisions of the [~~Nursing Home~~] Long-Term Care
8 Administrators Act;

9 B. approve for licensure applicants for:
10 (1) initial licensure;
11 (2) annual renewal of current, active
12 licenses;
13 (3) reciprocity;
14 (4) reinstatement of revoked or suspended
15 licenses; and
16 (5) reactivation of inactive or expired
17 licenses;

18 C. cause the prosecution or enjoinder of all
19 persons violating the [~~Nursing Home~~] Long-Term Care
20 Administrators Act and deny, suspend or revoke licenses in
21 accordance with the provisions of the Uniform Licensing Act;

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

. 135898. 1

underscored material = new
[bracketed material] = delete

1 E. employ such administrative personnel as may be
2 necessary for the efficient operation of the [~~Nursing Home~~]
3 Long-Term Care Administrators Act; and

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

6 Section 6. Section 61-13-8 NMSA 1978 (being Laws 1970,
7 Chapter 61, Section 7, as amended) is amended to read:

8 "61-13-8. LICENSURE OF NURSING HOME ADMINISTRATORS AND
9 ADULT RESIDENTIAL CARE FACILITY ADMINISTRATORS. --

10 A. The board shall issue a license as a nursing
11 home administrator to each applicant who files an application
12 in the form and manner prescribed by the board, accompanied by
13 the required fee, and who furnishes evidence, including a
14 criminal records check, satisfactory to the board that he:

15 [~~A.-~~] (1) is of good moral character;

16 [~~B.-~~] (2) has successfully completed a course
17 of study for a baccalaureate degree and has been awarded such
18 degree from an accredited institution in a course of study
19 approved by the board as being adequate preparation for
20 nursing home administrators;

21 [~~C.-~~] (3) demonstrates professional competence
22 by passing an examination in nursing home administration as
23 prepared and published by the professional examination service
24 or such other nationally recognized examination as the board
25 [~~shall prescribe~~] prescribes in its rules; [~~and regulations~~;

underscored material = new
[bracketed material] = delete

1 ~~D-~~ (4) demonstrates knowledge of state
2 ~~[regulations]~~ rules governing the operation of nursing homes
3 in a manner ~~[as]~~ the board ~~[shall prescribe]~~ prescribes in its
4 rules ~~[and regulations]~~; and

5 ~~E-~~ (5) has successfully completed an
6 internship or administrator-in-training program as prescribed
7 by the board in its rules ~~[and regulations]~~.

8 B. After July 1, 2002, the board shall issue a
9 license as an adult residential care facility administrator to
10 an applicant who files an application in the form and manner
11 prescribed by the board, accompanied by the required fee, and
12 who furnishes evidence, including a criminal records check,
13 satisfactory to the board that he demonstrates professional
14 competence in and knowledge of the operation of adult
15 residential care facilities, including a thorough
16 understanding of the department of health requirements for
17 adult residential care facilities, as prescribed by rules of
18 the board.

19 C. Until June 30, 2002 the board shall issue a
20 temporary license as an adult residential care facility
21 administrator to an applicant who demonstrates that he is
22 employed as an adult residential care facility administrator
23 and who pays the required fee set by rule of the board.

24 D. The board may adopt and implement rules to
25 permit issuance of a license as an adult residential care

underscored material = new
[bracketed material] = delete

1 facility administrator to a licensed nursing home
2 administrator who has not been disciplined by the board and
3 who makes application and pays the required fee for such a
4 license. "

5 Section 7. Section 61-13-10 NMSA 1978 (being Laws 1970,
6 Chapter 61, Section 9, as amended) is amended to read:

7 "61-13-10. LICENSURE BY EXAMINATIONS BY BOARD. --

8 A. Upon investigation of the application and other
9 evidence submitted, the board shall, not less than thirty days
10 prior to any scheduled examination, notify each applicant that
11 the application and evidence submitted is satisfactory or
12 unsatisfactory and rejected. If rejected, the notice shall
13 state the reasons for rejection.

14 B. Examinations shall be held at least twice each
15 year at such a time and place as the board may determine and
16 at other times as in the opinion of the board the number of
17 applicants for licensure warrants.

18 C. The board shall administer the national
19 standards examination for nursing home administrators in a
20 manner specified by the national examination service with
21 which it contracts.

22 D. The board shall adopt and implement an
23 examination for licensure as an adult residential care
24 facility administrator. "

25 Section 8. Section 61-13-11 NMSA 1978 (being Laws 1970,

. 135898. 1

underscored material = new
[bracketed material] = delete

1 Chapter 61, Section 10, as amended) is amended to read:

2 "61-13-11. LICENSURE WITHOUT EXAMINATION. -- The board
3 shall issue a nursing home administrator's license or adult
4 residential care facility administrator's license, temporary
5 or regular, without examination, to any person who holds a
6 current nursing home administrator's license [~~current and~~] or
7 an adult residential care facility administrator's license in
8 good standing in another jurisdiction [~~provided that~~] if the
9 board finds that the standards of licensure in the other
10 jurisdiction are at least the substantial equivalent of those
11 prevailing in this state and that the applicant meets the
12 qualifications of the [~~Nursing Home~~] Long-Term Care
13 Administrators Act. "

14 Section 9. Section 61-13-12 NMSA 1978 (being Laws 1970,
15 Chapter 61, Section 11, as amended) is amended to read:

16 "61-13-12. LICENSE AND RENEWAL FEES-- BOARD
17 EXPENDITURES. --

18 A. The board shall require by [~~appropriate~~] rule
19 [~~or regulation~~] that applicants for licensure [~~as nursing home~~
20 ~~administrators~~] pay a license fee in an amount set by the
21 board not to exceed two hundred fifty dollars (\$250) and an
22 annual renewal fee in an amount set by the board not to exceed
23 two hundred dollars (\$200).

24 B. The board shall deposit all fees received by
25 the board in [~~a special~~] the "long-term care administrators

. 135898. 1

underscored material = new
[bracketed material] = delete

1 fund" maintained by the state treasurer for use in defraying
2 the expenses of administration of the [~~Nursing Home~~] Long-Term
3 Care Administrators Act. [~~All~~] Any unexpended balance
4 remaining in the fund at the end of each fiscal year shall
5 remain to the credit of the board.

6 C. The board may obtain and administer programs of
7 grants-in-aid or financial assistance from any governmental
8 agency or private source in the furtherance of programs
9 consistent with the [~~Nursing Home~~] Long-Term Care
10 Administrators Act. "

11 Section 10. Section 61-13-13 NMSA 1978 (being Laws 1970,
12 Chapter 61, Section 12, as amended) is amended to read:

13 "61-13-13. REFUSAL, SUSPENSION OR REVOCATION OF
14 LICENSE. --The board may refuse to issue or renew or may
15 suspend or revoke any license in accordance with the
16 procedures contained in the Uniform Licensing Act on the
17 grounds that the licensee or applicant:

18 A. is guilty of fraud or deceit in procuring or
19 attempting to procure or renew a license to practice as a
20 [~~nursing home~~] long-term care administrator;

21 B. is convicted of a felony;

22 C. is guilty of gross incompetence;

23 D. is habitually intemperate or is addicted to the
24 use of habit-forming drugs or is addicted to any vice to such
25 a degree as to render him unfit to practice as a nursing home

underscored material = new
[bracketed material] = delete

1 administrator;

2 E. is guilty of failing to comply with any of the
3 provisions of the [~~Nursing Home~~] Long-Term Care Administrators
4 Act or any rules [~~or regulations~~] of the board adopted and
5 filed in accordance with the State Rules Act;

6 F. has been declared mentally incompetent by
7 regularly constituted authorities; provided that the
8 revocation shall only be in effect during the period of such
9 incompetency; or

10 G. is guilty of conduct that substantially
11 deviates from reasonable standards of acceptable practice of
12 [~~nursing home~~] long-term care administration, including [~~but~~
13 ~~not limited to~~] the following:

14 (1) he has been convicted of a misdemeanor
15 substantially relating to the practice of [~~nursing home~~] long-
16 term care administration;

17 (2) he has been found by a court of law, the
18 board, an agency responsible for the certification and
19 licensure of nursing homes or adult residential care
20 facilities, a state medicaid fraud and abuse unit or any other
21 duly recognized state agency to be responsible for the neglect
22 or abuse of [~~nursing home~~] long-term care facility residents
23 or the misappropriation of their personal funds or property;

24 (3) he has been found by a state [~~nursing~~
25 ~~home~~] long-term care licensing board, an agency responsible

underscored material = new
[bracketed material] = delete

1 for the certification and licensure of [~~nursing homes~~] long-
2 term care facilities or any other duly recognized state agency
3 as responsible for substandard care in a [~~nursing home~~] long-
4 term care facility;

5 (4) he has been found to have falsified
6 records related to the residents or employees of a [~~nursing~~
7 ~~home~~] long-term care facility on the basis of race, religion,
8 color, national origin, sex, age or handicap in violation of
9 federal or state laws; or

10 (5) he has had a license revoked, suspended
11 or denied by another state for any of the reasons contained
12 in this section. "

13 Section 11. Section 61-13-14 NMSA 1978 (being Laws 1970,
14 Chapter 61, Section 13) is amended to read:

15 "61-13-14. PENALTIES. --It [~~shall be~~] is a misdemeanor
16 for any person to:

17 A. sell or fraudulently obtain or furnish any
18 license or aid or abet in the obtaining or furnishing of any
19 license under the [~~Nursing Home~~] Long-Term Care Administrators
20 Act;

21 B. practice as a [~~nursing home~~] long-term care
22 administrator, under cover of any license or registration
23 illegally or fraudulently obtained or unlawfully issued;

24 C. practice as a [~~nursing home~~] long-term care
25 administrator or use in connection with his name any

underscored material = new
[bracketed material] = delete

1 designation tending to imply that he is a [~~nursing home~~] long-
2 term care administrator unless duly licensed and registered to
3 [~~so~~] practice under the provisions of the [~~Nursing Home~~] Long-
4 Term Care Administrators Act; or

5 D. practice as a [~~nursing home~~] long-term care
6 administrator without a valid license or during the time his
7 license or registration issued under the provisions of the
8 [~~Nursing Home~~] Long-Term Care Administrators Act is suspended
9 or revoked. "

10 Section 12. Section 61-13-15 NMSA 1978 (being Laws 1970,
11 Chapter 61, Section 14) is amended to read:

12 "61-13-15. INJUNCTIVE PROCEEDINGS. - -

13 A. The board may, in the name of the state [~~of New~~
14 ~~Mexico~~], through the attorney general, apply for an injunction
15 in any court of competent jurisdiction to enjoin any person
16 from committing any act declared to be a misdemeanor by the
17 [~~Nursing Home~~] Long-Term Care Administrators Act.

18 B. If it [~~be~~] is established that the defendant
19 has been or is committing an act declared to be a misdemeanor
20 by the [~~Nursing Home~~] Long-Term Care Administrators Act, the
21 court shall enter a decree perpetually enjoining [~~said~~] the
22 defendant from further committing [~~such~~] the act.

23 C. [~~Such~~] Injunctive proceedings shall be in
24 addition to and not in lieu of all penalties and other
25 remedies in the [~~Nursing Home~~] Long-Term Care Administrators

. 135898. 1

underscored material = new
[bracketed material] = delete

1 Act. "

2 Section 13. Section 61-13-17 NMSA 1978 (being Laws 1978,
3 Chapter 206, Section 1, as amended) is amended to read:

4 "61-13-17. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--
5 The [~~board of nursing home~~] long-term care administrators
6 board is terminated on July 1, 2005 pursuant to the Sunset
7 Act. The board shall continue to operate according to the
8 provisions of Chapter 61, Article 13 NMSA 1978 until July 1,
9 2006. Effective July 1, 2006, Chapter 61, Article 13 NMSA
10 1978 is repealed. "

11 Section 14. TEMPORARY PROVISIONS.--On the effective date
12 of the Long-Term Care Administrators Act, all money,
13 appropriations, records, files, furniture, equipment and other
14 property belonging to the board of nursing home administrators
15 is transferred to the long-term care administrators board.
16 All references in law to the Nursing Home Administrators Act
17 are deemed to refer to the Long-Term Care Administrators Act.

18 Section 15. REPEAL.--Section 61-13-16 NMSA 1978 (being
19 Laws 1970, Chapter 61, Section 15) is repealed.

20 Section 16. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2001.

22 - 14 -

23

24

25