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HOUSE BILL 134

**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

INTRODUCED BY

Sharon Clahchischilliage

AN ACT

RELATING TO LICENSING; AMENDING, REPEALING AND ENACTING  
SECTIONS OF THE SOCIAL WORK PRACTICE ACT.

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

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

"61-31-2. PURPOSE.--The profession of social work  
profoundly affects the lives of the people of this state;  
therefore, to safeguard the public health, safety and welfare  
of the people of New Mexico against the unregulated practice of  
social work, the legislature finds it necessary ~~[that]~~ to:

A. establish a proper regulatory authority ~~[be  
established]~~ for persons who seek to engage in the practice of  
social work;

B. protect the public from the practice of social

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1 work by unqualified persons; and

2 C. protect the public from unprofessional conduct  
3 by persons licensed to practice social work."

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

6 "61-31-3. DEFINITIONS.--As used in the Social Work  
7 Practice Act:

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

10 B. "appropriate supervision" means supervision by  
11 ~~[an]~~ a licensed clinical social worker or licensed independent  
12 social worker ~~[or a master social worker]~~ with two years of  
13 supervised social work practice experience, or other  
14 supervision ~~[which]~~ that is deemed by the board to be  
15 equivalent to supervision by a ~~[master]~~ licensed clinical  
16 social worker or licensed independent social worker;

17 C. "baccalaureate social worker" means a person who  
18 uses the title of social worker and has a bachelor's degree in  
19 social work from a program accredited by the council on social  
20 work education;

21 D. "board" means the board of social work  
22 examiners;

23 E. "client" means an individual, couple, family,  
24 group, organization or community that seeks or receives social  
25 work services from an individual social worker or an

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1 organization;

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

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

8 ~~[E.]~~ H. "department" means the regulation and  
9 licensing department;

10 ~~[F.]~~ I. "executive agency" means any agency within  
11 the executive branch of government;

12 ~~[G. "independent social worker" means a person who~~  
13 ~~uses the title of social worker and has a master's degree in~~  
14 ~~social work from a graduate school of social work accredited by~~  
15 ~~the council on social work education and who has had two years~~  
16 ~~of postgraduate social work practice under appropriate~~  
17 ~~supervision;~~

18 ~~H. "master social worker" means a person who uses~~  
19 ~~the title of social worker and has a master's degree in social~~  
20 ~~work from a graduate school of social work accredited by the~~  
21 ~~council on social work education; and~~

22 ~~[I.]~~ J. "professional code of ethics" means a code  
23 of ethics and rules adopted by the board, designed to protect  
24 the public and to regulate the professional conduct of social  
25 workers; and

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1                   K. "supervision" means an interactional  
2 professional relationship between a supervisor and a social  
3 worker that:

4                   (1) provides evaluation and direction over the  
5 supervisee's practice as a licensed clinical social worker or a  
6 licensed independent social worker; and

7                   (2) promotes continued development of the  
8 social worker's knowledge, skill and ability to practice as a  
9 licensed clinical social worker or a licensed independent  
10 social worker."

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

13                   "61-31-5. [~~EXEMPTIONS~~] USE OF TITLE--OTHER PROFESSIONS--  
14 SOCIAL WORK INTERNS.--

15                   A. Except as otherwise provided in the Social Work  
16 Practice Act, it shall be unlawful for an individual not  
17 licensed as a social worker to:

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

19                   (2) hold the individual out as a social  
20 worker; or

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

24                   B. A student completing social work experience  
25 requirements may use the title "social work intern".

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1           C. Nothing in the Social Work Practice Act shall be  
2 construed to prevent qualified members of other recognized  
3 professions that are licensed, certified or regulated under New  
4 Mexico law or regulation from rendering services within the  
5 scope of their license, certification or regulation; provided  
6 that they do not represent themselves as licensed social  
7 workers."

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

10           "61-31-7. BOARD CREATED.--

11           A. There is created the "board of social work  
12 examiners".

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

15           C. The board shall consist of seven members who are  
16 representative of the geographic and ethnic groups within New  
17 Mexico, who are United States citizens and who have been New  
18 Mexico residents for at least five years prior to their  
19 appointment. Of the seven members:

20                   (1) four members shall have been engaged in  
21 social work practice for at least five years; at least two of  
22 the four shall hold a master's degree in social work; and at  
23 least two shall hold a bachelor's degree in social work from  
24 schools of social work that are accredited by the council on  
25 social work education. At least one of these members shall be

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1 engaged primarily in clinical social work practice; one member  
2 shall be engaged primarily in education; one member shall be  
3 engaged primarily in administration or research in social work  
4 practice; and at least one member shall be engaged primarily in  
5 community organization, planning and development. These  
6 members shall not hold office in any professional organization  
7 of social workers during their tenure on the board; and

8 (2) three members shall represent the public.

9 The public members shall not have been licensed or have  
10 practiced as social workers. Public members shall not have any  
11 significant financial interest, whether direct or indirect, in  
12 social work practice.

13 D. Members of the board shall be appointed by the  
14 governor for staggered terms of three years. Each member shall  
15 hold office until a successor is appointed. Vacancies shall be  
16 filled for the unexpired term in the same manner as original  
17 appointments.

18 E. Except for the representatives of the public on  
19 the board, the governor shall appoint board members from a list  
20 of nominees submitted by social work organizations and  
21 individual social work professionals or from individuals who  
22 submit their resumes to the governor.

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

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

3 H. A simple majority of the board members currently  
4 serving shall constitute a quorum of the board.

5 I. The board shall meet at least once a year and at  
6 such other times as it deems necessary. Other meetings may be  
7 called by the chair upon the written request of a quorum of the  
8 board. The board may permit electronic participation in board  
9 meetings.

10 J. The governor may remove any member from the  
11 board for the neglect of any duty required by law, for  
12 incompetence, for improper or unprofessional conduct as defined  
13 by board rule, the social work code of ethics or professional  
14 standards of practice or for any reason that would justify the  
15 suspension or revocation of that member's license to practice  
16 social work.

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

22 L. In the event of a vacancy for any reason, the  
23 board secretary shall immediately notify the governor and the  
24 board of the vacancy and the reason for its occurrence to  
25 expedite the appointment of a new board member within a six-

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1 month period.

2 M. If a board member is named in or involved in a  
3 complaint or action being considered by the board, the board  
4 member shall not participate in any way in the board's  
5 discussion of the complaint or action or be involved in the  
6 decision-making process relating to the complaint or action."

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

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

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

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

19 C. adopt a professional code of ethics;

20 D. appoint advisory committees pursuant to Section  
21 61-31-19 NMSA 1978;

22 E. conduct hearings on an appeal of a denial of a  
23 license based on the applicant's failure to meet the minimum  
24 qualifications for licensure. The hearing shall be conducted  
25 pursuant to the Uniform Licensing Act;

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1 F. require and establish criteria for continuing  
2 education;

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

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

11 H. issue a cease and desist order to an individual  
12 who is not a social worker licensed in New Mexico and who holds  
13 the individual out as a social worker or who practices social  
14 work without a license;

15 I. approve appropriate supervision for a person  
16 seeking licensure as an independent clinical social worker.  
17 Approving appropriate supervision includes the development of  
18 criteria relating to the following issues with respect to a  
19 prospective supervisor's qualification to supervise:

20 (1) education;

21 (2) experience; and

22 (3) level of training;

23 ~~[F.]~~ J. issue provisional licenses, temporary  
24 licenses and licenses based on credentials to persons meeting  
25 the requirements set forth in the Social Work Practice Act;

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1           ~~[J-]~~ K. determine qualifications for licensure,  
2 including the requirement to demonstrate an awareness and  
3 knowledge of New Mexico cultures;

4           ~~[K-]~~ L. set fees for licenses as authorized by the  
5 Social Work Practice Act and authorize all disbursements  
6 necessary to carry out the provisions of the Social Work  
7 Practice Act; ~~[and~~

8           ~~[L-]~~ M. provide notice in accordance with the Open  
9 Meetings Act, keep a record of all proceedings and ~~[shall]~~ make  
10 an annual report to the governor; and

11           N. determine the appropriate application of  
12 technology to social work practice, including but not limited  
13 to video conferencing for supervision and client contact."

14           **SECTION 6.** Section 61-31-9 NMSA 1978 (being Laws 1989,  
15 Chapter 51, Section 9, as amended) is amended to read:

16           "61-31-9. REQUIREMENTS FOR LICENSURE.--

17           A. The board shall issue a license as a  
18 baccalaureate social worker to any person who files a completed  
19 application, accompanied by the required fees, and who submits  
20 satisfactory evidence that the applicant:

- 21                           (1) has reached the age of majority;  
22                           (2) has at least a bachelor's degree in social  
23 work from a program accredited by the council on social work  
24 education; and  
25                           (3) demonstrates professional competence by

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1 satisfactorily passing a written examination as prescribed by  
2 the board.

3 B. The board shall issue a license as a master  
4 social worker to any person who files a completed application,  
5 accompanied by the required fees, and who submits satisfactory  
6 evidence that the applicant:

7 (1) has reached the age of majority;

8 (2) has obtained a master's degree in social  
9 work from a graduate school of social work accredited by the  
10 council on social work education; and

11 (3) demonstrates professional competence by  
12 satisfactorily passing a written examination as prescribed by  
13 the board.

14 C. The board shall issue a license as an  
15 independent social worker or a licensed clinical social worker  
16 to any person who files a completed application, accompanied by  
17 the required fees, and who submits satisfactory evidence that  
18 the applicant:

19 (1) has reached the age of majority;

20 (2) has obtained a master's degree in social  
21 work from a graduate school of social work accredited by the  
22 council on social work education;

23 (3) has two years of postgraduate social work  
24 practice under appropriate supervision; and

25 (4) demonstrates professional competence by

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1 satisfactorily passing a written examination as prescribed by  
2 the board.

3 ~~[D. Notwithstanding the provisions of this section,~~  
4 ~~the board may grant a license on a case-by-case basis to those~~  
5 ~~employees of an executive agency who are currently practicing~~  
6 ~~social work as defined in Section 61-31-6 NMSA 1978 and have~~  
7 ~~been so employed for at least ten years prior to the effective~~  
8 ~~date of the Social Work Practice Act.]~~

9 D. The board shall issue a license in a timely  
10 manner after it has received an application for licensure and  
11 all documentation required for receiving a license; provided  
12 that, upon a finding of good cause to do so, the board may  
13 require that an applicant undergo a background check before  
14 granting a license to that applicant."

15 SECTION 7. Section 61-31-10 NMSA 1978 (being Laws 1989,  
16 Chapter 51, Section 10) is amended to read:

17 "61-31-10. [WRITTEN] EXAMINATION.--The date and location  
18 of the [written] social work licensure examination shall be  
19 established by the board. Applicants who have been found to  
20 meet the education and experience requirements for licensure  
21 shall be scheduled for the next examination following the  
22 filing of the application. The board shall establish by rule  
23 the examination application deadline and other rules relating  
24 to the retaking of the licensure examination."

25 SECTION 8. Section 61-31-11 NMSA 1978 (being Laws 1989,  
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1 Chapter 51, Section 11, as amended) is amended to read:

2 "61-31-11. PROVISIONAL LICENSURE.--Prior to examination,  
3 an applicant for licensure who holds a bachelor's degree or  
4 master's degree in social work may obtain a provisional license  
5 to engage in social work practice as long as the applicant  
6 meets all the requirements, except examination, as prescribed  
7 in Section 61-31-10 NMSA 1978 for the level of license sought.  
8 The provisional license is valid for a period not to exceed one  
9 year."

10 SECTION 9. Section 61-31-23 NMSA 1978 (being Laws 1989,  
11 Chapter 51, Section 23) is amended to read:

12 "61-31-23. INJUNCTIVE PROCEEDINGS.--The board may:

13 A. apply for an injunction in the district court of  
14 the first judicial district to enjoin any person from  
15 committing any act prohibited by the Social Work Practice Act;  
16 and

17 B. issue a cease and desist order to enjoin an  
18 individual who is not a licensed social worker from holding out  
19 as a social worker or practicing social work."

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

22 "61-31-25. TERMINATION OF AGENCY LIFE--DELAYED  
23 REPEAL.--The board of social work examiners is terminated on  
24 July 1, [~~2015~~] 2025 pursuant to the Sunset Act. The board  
25 shall continue to operate according to the provisions of the

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1 Social Work Practice Act until July 1, [2016] 2026. Effective  
2 July 1, [2016] 2026, the Social Work Practice Act is repealed."

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

5 "[NEW MATERIAL] LICENSED INDEPENDENT SOCIAL WORKER--  
6 LICENSURE--QUALIFICATIONS.--To be licensed as a licensed  
7 independent social worker, an individual shall meet all of the  
8 following qualifications:

- 9 A. be at least eighteen years of age;
- 10 B. possess at least a master's degree in social  
11 work from a graduate program of social work accredited by the  
12 council on social work education;
- 13 C. submit to the board proof of having completed  
14 the number of hours required pursuant to board rules of post-  
15 graduate social work experience as an employee under  
16 appropriate supervision as defined in Subsection B of Section  
17 61-31-3 NMSA 1978;
- 18 D. provide to the board documentation of having  
19 completed training in New Mexico cultures as specified by board  
20 rules;
- 21 E. provide to the board documentation of having  
22 completed a jurisprudence examination specified in board rules;  
23 and
- 24 F. have successfully passed the association of  
25 social work boards' advanced generalist examination or other

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1 examination approved by the board."

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

4 "[NEW MATERIAL] LICENSED CLINICAL SOCIAL WORKER--  
5 LICENSURE--QUALIFICATIONS.--To be licensed as a licensed  
6 clinical social worker, an individual shall meet all of the  
7 following qualifications:

8 A. be at least eighteen years of age;

9 B. possess at least a master's degree in social  
10 work from a graduate program of social work accredited by the  
11 council on social work education;

12 C. submit to the board proof of having completed  
13 the number of hours required pursuant to board rules of post-  
14 graduate social work experience as an employee under  
15 appropriate supervision as defined in Subsection B of Section  
16 61-31-3 NMSA 1978;

17 D. provide to the board documentation of having  
18 completed training in New Mexico cultures as specified by board  
19 rules;

20 E. provide to the board documentation of having  
21 completed a jurisprudence examination specified in board rules;  
22 and

23 F. have successfully passed the association of  
24 social work boards' clinical examination or other examination  
25 approved by the board."

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

3           "[NEW MATERIAL] LICENSED MASTER OF SOCIAL WORK  
4 LICENSURE--QUALIFICATIONS.--To be licensed as a licensed master  
5 of social work, an individual shall meet all of the following  
6 qualifications:

7                   A. be at least eighteen years of age;

8                   B. possess at least a master's degree in social  
9 work from a graduate program of social work accredited by the  
10 council on social work education;

11                   C. provide to the board documentation of having  
12 completed training in New Mexico cultures as specified by board  
13 rules;

14                   D. provide to the board documentation of having  
15 completed a jurisprudence examination specified in board rules;  
16 and

17                   E. have successfully completed the association of  
18 social work boards' master's examination or other examination  
19 approved by the board."

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

22           "[NEW MATERIAL] LICENSED BACHELOR OF SOCIAL WORK.--To be  
23 licensed as a licensed bachelor of social work, an individual  
24 shall meet all of the following qualifications:

25                   A. be at least eighteen years of age;

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1           B. possess at least a baccalaureate degree in  
2 social work from an undergraduate program of social work  
3 accredited by the council on social work education;

4           C. provide to the board documentation of having  
5 completed training in New Mexico cultures as specified by board  
6 rules;

7           D. provide to the board documentation of having  
8 completed a jurisprudence examination specified in board rules;  
9 and

10          E. have successfully completed the association of  
11 social work boards' bachelors of social work examination or  
12 other examination approved by the board."

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

15          "[NEW MATERIAL] PRACTICE PARAMETERS--BOARD RULES.--A  
16 licensed independent social worker, a licensed clinical social  
17 worker, a licensed master of social work or a licensed bachelor  
18 of social work shall practice only within the respective  
19 practice parameters that the board has established by rule."

20          SECTION 16. A new section of the Social Work Practice Act  
21 is enacted to read:

22          "[NEW MATERIAL] APPROPRIATE SUPERVISION--GUIDELINES.--An  
23 individual providing appropriate supervision as defined in  
24 Subsection B of Section 61-31-3 NMSA 1978 shall conform to  
25 supervision guidelines that the board establishes by rule."

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