

1 SENATE BILL 256

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Gerald Ortiz y Pino

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9  
10 AN ACT

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

13  
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

17 "61-31-2. PURPOSE.--The profession of social work  
18 profoundly affects the lives of the people of this state;  
19 therefore, to safeguard the public health, safety and welfare  
20 of the people of New Mexico against the unregulated practice of  
21 social work, the legislature finds it necessary ~~[that]~~ to:

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

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

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

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

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

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

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

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1                   J. "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                   A. Except as otherwise provided in the Social Work  
15 Practice Act, it is unlawful for an individual not licensed as  
16 a social worker to:

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

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

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

23                   B. Nothing in the Social Work Practice Act shall be  
24 construed to prevent qualified members of other recognized  
25 professions that are licensed, certified or regulated under New

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1 Mexico law or regulation from rendering services within the  
2 scope of their license, certification or regulation; provided  
3 that they do not represent themselves as licensed social  
4 workers."

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

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

8 A. There is created the "board of social work  
9 examiners".

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

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

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

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

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

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

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

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

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

25 H. A simple majority of the board members currently

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1 serving shall constitute a quorum of the board.

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

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

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

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

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

2 "61-31-8. BOARD'S AUTHORITY.--In addition to any  
3 authority provided by law, the board shall have the authority  
4 to:

5 A. adopt and file, in accordance with the State  
6 Rules Act, rules necessary to carry out the provisions of the  
7 Social Work Practice Act, in accordance with the provisions of  
8 the Uniform Licensing Act, including the procedures for an  
9 appeal of an examination failure;

10 B. select, prepare and administer, at least  
11 annually, written examinations for licensure;

12 C. adopt a professional code of ethics;

13 D. appoint advisory committees pursuant to Section  
14 61-31-19 NMSA 1978;

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

19 F. require and establish criteria for continuing  
20 education;

21 G. issue subpoenas, statements of charges,  
22 statements of intent to deny licenses and orders and delegate  
23 in writing to a designee the authority to issue subpoenas,  
24 statements of charges and statements of intent to deny licenses  
25 and establish procedures for receiving, investigating and

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1 conducting hearings on complaints;

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

4 H. issue a cease and desist order to an individual  
5 who is not a social worker licensed in New Mexico and who holds  
6 the individual out as a social worker or who practices social  
7 work without a license;

8 I. approve appropriate supervision for a person  
9 seeking licensure as a licensed independent social worker or a  
10 licensed clinical social worker. Approving appropriate  
11 supervision includes the development of criteria relating to  
12 the following areas with respect to a prospective supervisor's  
13 qualification to supervise:

14 (1) education;

15 (2) experience; and

16 (3) level of training;

17 ~~[F.]~~ J. issue provisional licenses ~~[temporary~~  
18 ~~licenses]~~ and licenses based on credentials to persons meeting  
19 the requirements set forth in the Social Work Practice Act;

20 ~~[G.]~~ K. determine qualifications for licensure,  
21 including the requirement to demonstrate an awareness and  
22 knowledge of New Mexico cultures;

23 ~~[K.]~~ L. set fees for licenses as authorized by the  
24 Social Work Practice Act and authorize all disbursements  
25 necessary to carry out the provisions of the Social Work

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1 Practice Act; ~~and~~

2 ~~L.]~~ M. provide notice in accordance with the Open  
3 Meetings Act, keep a record of all proceedings and ~~shall~~ make  
4 an annual report to the governor; and

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

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

10 "61-31-10. ~~WRITTEN~~ EXAMINATION.--The date and location  
11 of the ~~written~~ social work licensure examination shall be  
12 established by the board. Applicants who have been found to  
13 meet the education and experience requirements for licensure  
14 shall be scheduled for the next examination following the  
15 filing of the application. The board shall establish by rule  
16 the examination application deadline and other rules relating  
17 to the retaking of the licensure examination."

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

20 "61-31-11. PROVISIONAL LICENSURE.--Prior to examination,  
21 an applicant for licensure who holds a bachelor's degree or  
22 master's degree in social work may obtain a provisional license  
23 to engage in social work practice as long as the applicant  
24 meets all the requirements, except examination, as prescribed  
25 in Section 61-31-10 NMSA 1978 for the level of license sought.

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1 The provisional license is valid for a period not to exceed one  
2 year."

3 SECTION 8. Section 61-31-23 NMSA 1978 (being Laws 1989,  
4 Chapter 51, Section 23) is amended to read:

5 "61-31-23. INJUNCTIVE PROCEEDINGS.--The board may:

6 A. apply for an injunction in the district court of  
7 the first judicial district to enjoin any person from  
8 committing any act prohibited by the Social Work Practice Act;  
9 and

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

13 SECTION 9. Section 61-31-25 NMSA 1978 (being Laws 1989,  
14 Chapter 51, Section 27, as amended) is amended to read:

15 "61-31-25. TERMINATION OF AGENCY LIFE--DELAYED  
16 REPEAL.--The board of social work examiners is terminated on  
17 July 1, [~~2015~~] 2025 pursuant to the Sunset Act. The board  
18 shall continue to operate according to the provisions of the  
19 Social Work Practice Act until July 1, [~~2016~~] 2026. Effective  
20 July 1, [~~2016~~] 2026, the Social Work Practice Act is repealed."

21 SECTION 10. A new section of the Social Work Practice Act  
22 is enacted to read:

23 "[NEW MATERIAL] LICENSED INDEPENDENT SOCIAL WORKER--  
24 LICENSURE--QUALIFICATIONS.--After receipt of an application and  
25 any requisite fees and documentation in accordance with board

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1 rules, the board shall issue in a timely manner a license to  
2 practice as a licensed independent social worker to any  
3 individual who:

4 A. is at least eighteen years of age;

5 B. possesses at least a master's degree in social  
6 work from a graduate program of social work accredited by the  
7 council on social work education;

8 C. submits to the board proof of having completed  
9 the number of hours required pursuant to board rules of post-  
10 graduate social work experience as an employee under  
11 appropriate supervision as defined in Subsection B of Section  
12 61-31-3 NMSA 1978;

13 D. provides to the board documentation of having  
14 completed training in New Mexico cultures as specified by board  
15 rules;

16 E. provides to the board documentation of having  
17 completed a jurisprudence examination specified in board rules;  
18 and

19 F. has successfully passed the association of  
20 social work boards' advanced generalist examination or other  
21 examination approved by the board."

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

24 "[NEW MATERIAL] LICENSED CLINICAL SOCIAL WORKER--  
25 LICENSURE--QUALIFICATIONS.--After receipt of an application and  
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1 any requisite fees and documentation in accordance with board  
2 rules, the board shall issue in a timely manner a license to  
3 practice as a licensed clinical social worker to any individual  
4 who:

5 A. is at least eighteen years of age;

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

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

14 D. provides to the board documentation of having  
15 completed training in New Mexico cultures as specified by board  
16 rules;

17 E. provides to the board documentation of having  
18 completed a jurisprudence examination specified in board rules;  
19 and

20 F. has successfully passed the association of  
21 social work boards' clinical examination or other examination  
22 approved by the board."

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

25 "[NEW MATERIAL] LICENSED MASTER OF SOCIAL WORK

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1 LICENSURE--QUALIFICATIONS.--After receipt of an application and  
2 any requisite fees and documentation in accordance with board  
3 rules, the board shall issue in a timely manner a license to  
4 practice as a licensed master of social work to any individual  
5 who:

- 6 A. is at least eighteen years of age;
- 7 B. possesses at least a master's degree in social  
8 work from a graduate program of social work accredited by the  
9 council on social work education;
- 10 C. provides to the board documentation of having  
11 completed training in New Mexico cultures as specified by board  
12 rules;
- 13 D. provides to the board documentation of having  
14 completed a jurisprudence examination specified in board rules;  
15 and
- 16 E. has successfully completed the association of  
17 social work boards' master's examination or other examination  
18 approved by the board."

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

21 "[NEW MATERIAL] LICENSED BACHELOR OF SOCIAL WORK.--After  
22 receipt of an application and any requisite fees and  
23 documentation in accordance with board rules, the board shall  
24 issue in a timely manner a license to practice as a licensed  
25 bachelor of social work to any individual who:

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1           A. is at least eighteen years of age;

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

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

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

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

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

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

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

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

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1 supervision guidelines that the board establishes by rule."

2 SECTION 16. REPEAL.--Sections 61-31-9, 61-31-12 and  
3 61-31-13.1 NMSA 1978 (being Laws 1989, Chapter 51, Sections 9  
4 and 12 and Laws 2006, Chapter 4, Section 8, as amended) are  
5 repealed.

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