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## FISCAL IMPACT REPORT

**SPONSOR** HCEDC **ORIGINAL DATE** 2/8/22 **CS/HB191/aHGEIC/**  
**LAST UPDATED** 2/14/22 **HB** aHF1#1  
**SHORT TITLE** Professional & Occupational Licensure Changes **SB** \_\_\_\_\_  
**ANALYST** Rees

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY22	FY23	FY24	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Regulation and Licensing Department, Boards and Commissions Division

Attorney General's Office (NMAG)

New Mexico Medical Board

New Mexico Board of Nursing

### SUMMARY

#### Synopsis of HF1#1 Amendment

The House floor amendment #1 to HB191 corrected grammatical/spelling errors from the HCEDC substitute bill and removed language from several sections of the bill that would have required an applicant seeking expedited licensure for certain types of professional licenses to have been licensed in another state/jurisdiction for a minimum of two years prior to applying for expedited licensure in New Mexico. As amended, the bill no longer requires a specific two-year period of prior professional licensure before an individual may qualify for expedited licensure in New Mexico.

#### Synopsis of HGEIC Amendment

The House Government, Elections and Indian Affairs Committee amended the House Commerce and Economic Development Committee Substitute for HB191 by striking Section 104 of the Committee Substitute and renumbering the succeeding sections accordingly.

Section 104 would have amended the Tobacco Products Act at Section 61-37-13 NMSA 1978 to provide for an administrative hearing conducted by the Director of the Alcoholic Beverage Division (Division) of the Regulation Division (Director), or a hearing office appointed by the Director, to be conducted in accordance with the Uniform Licensing Act rather than by rules promulgated by the division.

### Synopsis of Bill

House Bill 191/HCEDS amends and repeals certain sections of the Uniform Licensing Act (ULA).

Section 1 provides definitions for “expedited license,” “initial license,” “licensing jurisdiction,” and “regular license.”

Sections 2 and 3 add new material to the ULA that will eliminate New Mexico residency requirements in initial licensure and renewal, and sets out how a board should notify an applicant that applicant’s license is incomplete giving a thirty day timeline to complete the application and establishes that incomplete applications expire after one year.

Section 4 amends Section 61-1-4 NMSA 1978 to clarify that a licensee that has received a notice of contemplated action, and that fails to request a hearing, to within a reasonable time, apply to the board to reopen proceedings in case of an accident, sickness or other cause that may have prevented the request for hearing. This section also requires that all fines collected by a board subject to the ULA, shall be deposited in the current school fund as required by Article 12, Section 4 of the New Mexico state constitution.

Section 5 eliminates the rulemaking requirements in the ULA and requires all boards subject to the ULA, to be subject to the State Rules Act, Sections 14-4-1, et seq., NMSA 1978, for all rulemaking thus eliminating the requirement for publication of the notice of rulemaking in a newspaper of general jurisdiction and eliminating the “thirty day after filing” effective date for final rules.

Section 6 clarifies the procedure for appeal by a person affected by a final rule promulgated by a board.

Sections 7 amends Section 61-1-31.1 NMSA 1978 to provide for expedited licensure for professional/occupational applicants that will be based on the applicant’s licensure in good standing in another jurisdiction. The new procedure for expedited licensure requires each board that is subject to the ULA for licensure matters to establish procedures via administrative rulemaking that require issuance of a license within thirty days of filing the application if the applicant: (1) holds a current license in good standing from another licensing jurisdiction; and (2) has practiced for at least two years immediately prior to submitting the application in New Mexico. A license that would be issued under this expedited licensure process will effectively be a one-year provisional license that confers the same rights, privileges and responsibilities as a regular license. A board may extend an expedited license upon a showing of extenuating circumstances. A regular license must be applied for by the applicant at the end of the expedited licensure one-year period. If examination is required for a particular type of license, then the applicant must pass an examination to renew the license.

The bill also requires a board to determine by rule, which states and territories of the United States, or the District of Columbia, a board will not accept an applicant for expedited licensure, as well as those foreign countries from which the board will not accept an applicant for expedited licensure. The lists for jurisdictions to be accepted and not accepted, must be posted on each board's website. The list of disapproved licensing jurisdictions must include a reason for the disapproval. The board will be required to review the lists annually to determine if amendments to the rule are needed.

Section 8 creates a procedure for boards to authorize issuance of a temporary or provisional license, including an expedited license, to a licensee from another licensing jurisdiction. If the original license did not require an examination and a New Mexico license does require an examination, the board may require the applicant to take and pass such examination for temporary license to become permanent. Additionally, a board may also require an applicant to carry insurance during the term of the temporary or provisional license. All boards required to change licensing provisions to allow for temporary, provisional or expedited licensure will be required to conduct and complete a rulemaking by January 1, 2023.

Section 9 clarifies but keeps the provision that allows members of the public to make a written request to a board to adopt, amend, or repeal a rule.

Section 10 amends Section 61-1-34 NMSA 1978 of the ULA to clarify the expedited licensure for military service members their spouses and dependent children, and for veterans. Specifically, it eliminates the requirement to evaluate whether a qualified applicant has met minimal licensing requirements that are substantially equivalent to the licensing requirements in the licensing field where the applicant has submitted an application making the license a regular license. However, if a qualified applicant was licensed in a jurisdiction where an examination was not required, but there is an examination requirement in New Mexico, the board may require an examination prior to renewal of the license.

Boards that will be required to issue expedited licenses pursuant to Section 61-1-31.1 NMSA 1978, as amended include: Board of Optometry, Lactation Care, Chiropractic Board, Board of Dental Health Care, Board of Podiatry, Board of Psychologist Examiners, Counseling and Therapy Practices Board, Board of Examiners for Occupational Therapy, Advisory Board of Respiratory Care Practitioners, Massage Therapy Board, Physical Therapy Board, Board of Acupuncture and Oriental Medicine, Speech-Language Pathology, Audiology, and Hearing Aid Dispensing Practices Board, Athletic Trainer Practice Board, and the Board of Barbers and Cosmetologists.

The following Boards will be subject to the provisions of the State Rule Act for promulgating rules and to the provisions of the ULA for discipline of a licensee: Board of Nursing, Lactation Care, Medical Board, Board of Psychologist Examiners, Occupational Therapy Board, Board of Veterinary Medicine, Speech- Language Pathology, Audiology, and Hearing Aid Dispensing Practices Board, Collection Agencies, Engineering and Surveying, Board of Landscape Architects, Public Accountancy Board, Real Estate Commission, Real Estate Appraisers Board, Board of Funeral Services, Utility Operators, and the Signed Language Interpreting Practices Board.

Section 69 amends certain sections of the Barbers and Cosmetologists Act to add responsibilities of the Regulation and Licensing Department in adopting rules, establishing fees, providing

examinations and standards for examinations and for license renewal. It clarifies that rulemaking shall be conducted pursuant to the State Rules Act and disciplinary matters must be enforced pursuant to the ULA. The bill gives specific powers to the Regulation and Licensing Department to process applications, investigate violations, approve the selection of a supervision of primary staff assigned to the board, carry out operations of the board including budgetary expenditures, maintain records, and keep licensing records of the board. The bill also amends certain sections of the Barbers and Cosmetologists Act to remove the requirement for a four year high school education or equivalent for qualification to be licensed as a barber, hairstylist, cosmetologist, or cosmetologist instructor.

Section 70 eliminates the depositing of fines into the Barbers and Cosmetologists fund and requires licensure changes to the location listed for a place of business be submitted to the Regulation and Licensing Department instead of the executive director of the board.

Section 79 amends Section 61-17A-21 NMSA 1978 to eliminate habitual drunkenness or addiction as a grounds for discipline, but adds as a basis for discipline that a licensee cannot work while under the influence of intoxicating liquor or drugs. It eliminates the moral turpitude criteria for evaluation in a disciplinary proceeding.

Section 80 amends the Body Art Safe Practices Act, to set license and renewal fees not to exceed \$300 and late fees not to exceed \$100. In addition to adding the provisions for expedited licensure required in Section 61-1-31.1 NMSA 1978 and to the rulemaking requirements for determining approved list of jurisdictions and disapproved licensing jurisdictions.

Section 82 of the bill eliminates the deposit of fines into the Body Art Practitioners Fund.

Section 83 extends the sunset date for the Board of Body Art Practitioners from July 1, 2022 to July 1, 2028.

Lastly, Section 107 of the bill repeals Sections 61-1-27 and 61-1-30 NMSA 1978 of the Uniform Licensing Act and Section 61-6-7 NMSA 1978 of the Medical Practice Act.

### **FISCAL IMPLICATIONS**

HB191/HEDCS does not contain an appropriation and is scored as having no fiscal impact.

### **SIGNIFICANT ISSUES**

According to the Medical Board, HB191/HEDCS clarifies that licensure for Registered Nurses, Licensed Practical Nurses, Certified Nurse Practitioners, Certified Registered Nurse Anesthetists and Clinical Nurse Specialists are subject to the provisions for expedited licensure and out-of-state licensees.

### **ADMINISTRATIVE IMPLICATIONS**

HB191/HCEDCS will require rulemaking by all boards subject to the new procedures and amendments to the ULA and to the specific practice acts, with the exception of appeals filed pursuant to the Tobacco Products per the HGEIC amendment to HB 191/CS.

HB191/HCEDCS will establish more uniform criteria for expedited licensure and has the effect of reducing confusion for issuing licenses for out of state licensees. The provisions will significantly reduce the amount of time it takes to review and approve licenses.

**OTHER SUBSTANTIVE ISSUES**

In the case where an examination is available only one or two times per year, there may be instances where a licensee with an expedited, provisional, or temporary license may not be able to take or pass the examination before the expiration of the one year time period, which is addressed by the board's authority to extend the provisional license due to extenuating circumstances.

CR/acv/al