

1 SENATE BILL 247

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO LICENSING; ADDING AND CLARIFYING DEFINITIONS AND  
12 PROVISIONS OF THE UNIFORM LICENSING ACT; CLARIFYING PROVISIONS  
13 RELATED TO INCOMPLETE APPLICATIONS, HEARINGS AND EXPEDITED  
14 LICENSURE; ALLOWING VIRTUAL REMOTE HEARINGS AND RECORDING BY  
15 DIGITAL TECHNOLOGY; CHANGING DATES FOR ACTIONS RELATED TO  
16 HEARINGS AND DECISIONS; ALLOWING FOR SUMMARY SUSPENSION OF A  
17 LICENSE OR PROBATION OF A LICENSEE; PROVIDING REQUIREMENTS FOR  
18 IMPLEMENTATION AND ENFORCEMENT OF COMPACTS; INCREASING THE  
19 PENALTY FOR UNLICENSED ACTIVITY.

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

22 SECTION 1. Section 61-1-2 NMSA 1978 (being Laws 1957,  
23 Chapter 247, Section 2, as amended) is amended to read:

24 "61-1-2. DEFINITIONS.--As used in the Uniform Licensing  
25 Act:

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A. "board" means:

(1) the construction industries commission, the construction industries division and the electrical bureau, mechanical bureau and general construction bureau of the construction industries division of the regulation and licensing department;

(2) the manufactured housing committee and the manufactured housing division of the regulation and licensing department;

(3) the crane operators licensure examining council;

(4) a board, commission or agency that administers a profession or occupation licensed pursuant to Chapter 61 NMSA 1978; and

(5) any other state agency to which the Uniform Licensing Act is applied by law;

B. "applicant" means a person who has applied for a license;

C. "expedited license", whether by examination, endorsement, credential or reciprocity, means a license issued to a person in this state based on licensure in another state or territory of the United States, the District of Columbia or a foreign country, as applicable;

D. "initial license" means the first regular license received from a board for a person who has not been

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1 previously licensed;

2 E. "license" means a certificate, permit or other  
3 authorization to engage in a profession or occupation regulated  
4 by a board;

5 F. "licensing jurisdiction" means another state or  
6 territory of the United States, the District of Columbia or a  
7 foreign country, as applicable;

8 G. "party" means a respondent licensee, applicant  
9 or unlicensed person who is the subject of a disciplinary  
10 proceeding or the civil administrative prosecutor representing  
11 the state and the board;

12 H. "probation" means to allow, for a stated period  
13 of time, the conduct authorized by a license, subject to  
14 conditions or other restrictions that are reasonably related to  
15 the grounds for probation;

16 [~~G.~~] I. "regular license" means a license that is  
17 not issued as a temporary or provisional license;

18 [~~H.~~] J. "[revoke a license] revocation" means to  
19 prohibit the conduct authorized by the license for an  
20 indefinite period of time; and

21 [~~I.~~] K. "[suspend a license] suspension" means to  
22 prohibit, for a stated period of time, the conduct authorized  
23 by the license. ["Suspend a license" also means to allow, for  
24 a stated period of time, the conduct authorized by the license,  
25 subject to conditions that are reasonably related to the

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1 ~~grounds for suspension.]"~~

2 SECTION 2. Section 61-1-3 NMSA 1978 (being Laws 1957,  
3 Chapter 247, Section 3, as amended) is amended to read:

4 "61-1-3. OPPORTUNITY FOR LICENSEE OR APPLICANT TO HAVE  
5 HEARING.--Every licensee or applicant shall be afforded notice  
6 and an opportunity to be heard before the board has authority  
7 to take any action that would result in:

8 A. denial of permission to take an examination for  
9 licensing for which a complete application has been properly  
10 made as required by board rule;

11 B. denial of a license after examination for any  
12 cause other than failure to pass an examination;

13 C. denial of a license for which a complete  
14 application has been properly made as required by board rule on  
15 the basis of expedited licensure, reciprocity or endorsement or  
16 acceptance of a national certificate of qualification;

17 D. withholding the renewal of a license for which a  
18 complete application has been properly made for any cause other  
19 than:

20 (1) failure to pay any required renewal fee;

21 (2) failure to meet continuing education  
22 requirements; or

23 (3) issuance of a temporary license extension  
24 if authorized by statute;

25 E. suspension of a license;

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1 F. revocation of a license;  
2 G. probation of a license, including restrictions  
3 or limitations on the scope of a practice;

4 H. the requirement that the applicant complete a  
5 program of remedial education or treatment;

6 I. monitoring of the practice by a supervisor  
7 approved by the board, excluding supervision required for  
8 initial licensure;

9 J. the censure or reprimand of the licensee or  
10 applicant, including an action that constitutes formal  
11 discipline or is subject to reporting to a state or national  
12 organization;

13 K. compliance with conditions of probation or  
14 suspension for a specific period of time;

15 L. payment of a fine [~~for a violation not to exceed~~  
16 ~~one thousand dollars (\$1,000) for each violation, unless a~~  
17 ~~greater amount is provided by law~~];

18 M. corrective action, as specified by the board; or

19 N. a refund to the consumer of fees that were  
20 billed to and collected from the consumer by the licensee."

21 SECTION 3. Section 61-1-3.1 NMSA 1978 (being Laws 1981,  
22 Chapter 349, Section 3, as amended) is amended to read:

23 "61-1-3.1. LIMITATIONS.--

24 A. An action that would have any of the effects  
25 specified in Subsections D through N of Section 61-1-3 NMSA  
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1 1978 or an action related to unlicensed activity shall not be  
2 initiated by a board later than two years after the discovery  
3 by the board of the conduct that would be the basis for the  
4 action, except as provided in [~~Subsection C of~~] this section or  
5 otherwise provided by law. Discovery by the board is  
6 considered the date on which a complaint or other information  
7 that would reasonably connect the allegations to the person was  
8 received by a board or board staff.

9 B. The time limitation contained in Subsection A of  
10 this section shall be tolled by any civil or criminal  
11 litigation in which the licensee or applicant is a party  
12 arising from substantially the same facts, conduct or  
13 transactions that would be the basis for the board's action.

14 C. The New Mexico state board of psychologist  
15 examiners shall not initiate an action that would result in any  
16 of the actions specified in Subsections D through N of Section  
17 61-1-3 NMSA 1978 later than five years after the conduct of the  
18 psychologist or psychologist associate that is the basis for  
19 the action. However, if the conduct that is the basis for the  
20 action involves a minor or a person adjudicated incompetent,  
21 the action shall be initiated, in the case of a minor, no later  
22 than one year after the minor's eighteenth birthday or five  
23 years after the conduct, whichever is last and, in the case of  
24 a person adjudicated incompetent, one year after the  
25 adjudication of incompetence is terminated or five years after

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1 the conduct, whichever is last.

2 D. The New Mexico public accountancy board shall  
3 not initiate an action under the 1999 Public Accountancy Act  
4 that would result in any of the actions specified in  
5 Subsections D through N of Section 61-1-3 NMSA 1978 later than  
6 two years following the discovery by the board of a violation  
7 of that act."

8 SECTION 4. Section 61-1-3.2 NMSA 1978 (being Laws 2003,  
9 Chapter 334, Section 3) is amended to read:

10 "61-1-3.2. UNLICENSED ACTIVITY--DISCIPLINARY  
11 PROCEEDINGS--CIVIL PENALTY.--

12 A. A person who is not licensed to engage in a  
13 profession or occupation regulated by a board is subject to  
14 disciplinary proceedings by the board.

15 B. A board may impose a civil penalty in an amount  
16 not to exceed [~~one thousand dollars (\$1,000)~~] ten thousand  
17 dollars (\$10,000) for each violation against a person who,  
18 without [~~a~~] an active license, engages in a profession or  
19 occupation regulated by the board. In addition, the board may  
20 assess the person for administrative costs, including  
21 investigative costs and the cost of conducting a hearing."

22 SECTION 5. Section 61-1-3.4 NMSA 1978 (being Laws 2019,  
23 Chapter 209, Section 4) is amended to read:

24 "61-1-3.4. FINGERPRINTS NOT REQUIRED FOR LICENSE  
25 RENEWAL.--When a professional or occupational board requires  
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1 submission of fingerprints as part of the initial license  
2 application, and a licensee has provided fingerprints and the  
3 license has been issued, the board shall not require a licensee  
4 to submit fingerprints again to renew the license, but a  
5 licensee shall submit to a background investigation if required  
6 by law or rule of the board."

7 SECTION 6. Section 61-1-3.5 NMSA 1978 (being Laws 2022,  
8 Chapter 39, Section 3) is amended to read:

9 "61-1-3.5. INCOMPLETE APPLICATION--NOTICE--EXPIRATION.--  
10 An application for licensure is considered incomplete if it is  
11 submitted on an application form missing required information  
12 or without providing required supporting documentation. If a  
13 board or a board's designee deems an application for licensure  
14 incomplete, the board or designee shall notify the applicant  
15 within thirty days [~~including the ways in which~~] from the date  
16 the application was received by the board or designee and  
17 include how the application is incomplete and what is needed to  
18 complete the application. An incomplete application expires  
19 [~~after~~] one year from the date the application was first  
20 received by the board."

21 SECTION 7. Section 61-1-4 NMSA 1978 (being Laws 1957,  
22 Chapter 247, Section 4, as amended) is amended to read:

23 "61-1-4. NOTICE OF CONTEMPLATED BOARD ACTION--REQUEST FOR  
24 HEARING--NOTICE OF HEARING.--

25 A. When investigating complaints against licensees,

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1 applicants or unlicensed persons, a board may issue civil  
2 investigative subpoenas prior to the issuance of a notice of  
3 contemplated action as provided in this section. The authority  
4 to issue civil investigative subpoenas under this section may  
5 be delegated by the board to staff.

6 B. When a board contemplates taking an action of a  
7 type specified in Subsection A, B or C of Section 61-1-3 NMSA  
8 1978, it shall serve upon the applicant a written notice  
9 containing a statement:

10 (1) that the applicant has failed to satisfy  
11 the board of the applicant's qualifications to be examined or  
12 to be issued a license, as the case may be;

13 (2) indicating in what respects the applicant  
14 has failed to satisfy the board;

15 (3) that the applicant may secure a hearing  
16 before the board by depositing in the mail within twenty days  
17 after service of the notice a certified return receipt  
18 requested letter addressed to the board and containing a  
19 request for a hearing; and

20 (4) calling the applicant's attention to the  
21 applicant's rights under Section 61-1-8 NMSA 1978.

22 C. In a board proceeding to take an action of a  
23 type specified in Subsection A, B or C of Section 61-1-3 NMSA  
24 1978, the burden of satisfying the board of the applicant's  
25 qualifications shall be upon the applicant.

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1           D. When a board contemplates taking an action of a  
2 type specified in Subsections D through N of Section 61-1-3  
3 NMSA 1978 or Section 61-1-3.2 NMSA 1978, it shall serve upon  
4 the licensee, applicant or unlicensed person a written notice  
5 containing a statement:

6                   (1) that the board has sufficient evidence  
7 that, if not rebutted or explained, [~~will~~] may justify the  
8 board in taking the contemplated action;

9                   (2) indicating the general nature of the  
10 evidence and allegations, including specific laws or rules that  
11 are alleged to have been violated;

12                   (3) that unless the licensee, applicant or  
13 unlicensed person within twenty days after service of the  
14 notice deposits in the mail a certified return receipt  
15 requested letter addressed to the board and containing a  
16 request for a hearing, the board [~~shall~~] may take the  
17 contemplated action; and

18                   (4) calling the licensee's, applicant's or  
19 unlicensed person's attention to the [~~licensee's~~] rights [~~as~~]  
20 provided in Section 61-1-8 NMSA 1978.

21           E. Except as provided in Section 61-1-15 NMSA 1978,  
22 if the licensee, [~~or~~] applicant or unlicensed person does not  
23 mail a request for a hearing within the time and in the manner  
24 required by this section, the board may take the action  
25 contemplated in the notice and such action shall be final and

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1 not subject to judicial review as a matter of right.

2 F. If the licensee, [~~or~~] applicant or unlicensed  
3 person does mail a request for a hearing as required by this  
4 section, the board shall, within twenty days of receipt of the  
5 request, notify the licensee, [~~or~~] applicant or unlicensed  
6 person of the time and place of hearing, the name of the person  
7 who shall conduct the hearing for the board and the statutes  
8 and rules authorizing the board to take the contemplated  
9 action. The hearing shall be held not more than sixty nor less  
10 than fifteen days from the date [~~of service of~~] the notice of  
11 hearing is deposited in the mail, certified return receipt  
12 requested, or the date of personal service.

13 G. Licensees, applicants and unlicensed persons  
14 shall bear all costs of [~~disciplinary~~] proceedings pursuant to  
15 the Uniform Licensing Act unless they are excused by the board  
16 from paying all or part of the fees or if they prevail at the  
17 hearing and an action specified in Section 61-1-3 NMSA 1978 is  
18 not taken by the board. Costs may include a court reporter or  
19 other recording or transcription service, expert witnesses and  
20 actual costs to rent space for the hearing, but may not include  
21 expenses associated with staff, a hearing officer or a member  
22 of the board for conducting or preparing for the hearing.

23 H. All fines collected by a board shall be  
24 deposited to the credit of the current school fund as provided  
25 in Article 12, Section 4 of the constitution of New Mexico."

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1           SECTION 8. Section 61-1-5 NMSA 1978 (being Laws 1957,  
2 Chapter 247, Section 5, as amended) is amended to read:

3           "61-1-5. METHOD OF SERVICE.--Any notice required to be  
4 served by Section 61-1-4 or 61-1-21 NMSA 1978 and any decision  
5 required to be served by Section 61-1-14 or 61-1-21 NMSA 1978  
6 may be served either personally or by certified mail, return  
7 receipt requested, directed to the licensee, [~~or~~] applicant or  
8 unlicensed person at [~~his~~] the last [~~know~~] known address as  
9 shown by the records of the board. Unlicensed persons with no  
10 address on record with the board shall receive notice by  
11 personal service. If the notice or decision is served  
12 personally, service shall be made in the same manner as is  
13 provided for service by the Rules of Civil Procedure for the  
14 District Courts. Where the notice or decision is served by  
15 certified mail, it shall be deemed to have been served on the  
16 date borne by the return receipt showing delivery or the last  
17 attempted delivery of the notice or decision to the addressee  
18 or refusal of the addressee to accept delivery of the notice or  
19 decision. Service of correspondence sent by a licensee,  
20 applicant or unlicensed person through other methods, including  
21 electronic mail or physical mail, should be reasonably accepted  
22 and processed by the board."

23           SECTION 9. Section 61-1-6 NMSA 1978 (being Laws 1957,  
24 Chapter 247, Section 6) is amended to read:

25           "61-1-6. VENUE OF HEARING.--Board hearings held [~~under~~]

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1 pursuant to provisions of the Uniform Licensing Act shall be  
2 conducted at the election of the board in the county in which  
3 ~~[the person whose license is involved]~~ the licensee, applicant  
4 or unlicensed person maintains ~~[his]~~ residence or ~~[at the~~  
5 ~~election of the board]~~ in ~~[any]~~ a county in which the act ~~[or~~  
6 ~~acts]~~ complained of occurred; except that in cases involving  
7 initial licensing, hearings shall be held in the county where  
8 the board maintains its office. In any case, however, the  
9 person whose license or application is involved or the person  
10 who performed the unlicensed act and the board may agree that  
11 the hearing is to be held in some other county or by virtual  
12 remote means."

13 SECTION 10. Section 61-1-7 NMSA 1978 (being Laws 1957,  
14 Chapter 247, Section 7, as amended) is amended to read:

15 "61-1-7. HEARING OFFICERS--HEARINGS--PUBLIC--EXCEPTION--  
16 EXCUSAL--PROTECTION OF WITNESS AND INFORMATION.--

17 A. All hearings ~~[under]~~ held pursuant to provisions  
18 of the Uniform Licensing Act shall be conducted either by the  
19 board or, at the election of the board, by a hearing officer  
20 who may be a member or employee of the board or any other  
21 person designated by the board in its discretion. A hearing  
22 officer shall, within thirty days after ~~[any]~~ a hearing, submit  
23 to the board a report setting forth ~~[his]~~ the hearing officer's  
24 findings of fact and recommendations.

25 B. All hearings ~~[under]~~ held pursuant to provisions

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1 of the Uniform Licensing Act shall be open to the public;  
2 provided that in cases in which ~~[any]~~ a constitutional right of  
3 privacy of ~~[an applicant or]~~ a licensee, applicant or  
4 unlicensed person may be irreparably damaged, a board or  
5 hearing officer may hold a closed hearing if the board or  
6 hearing officer so desires and states the reasons for this  
7 decision in the record. The ~~[applicant or]~~ licensee, applicant  
8 or unlicensed person may, for good cause shown, request a board  
9 or hearing officer to hold either a public or a closed hearing.

10 C. Each party may peremptorily excuse one board  
11 member or a hearing officer by filing with the board a notice  
12 of peremptory excusal at least twenty days prior to the date of  
13 the hearing, but this privilege of peremptory excusal may not  
14 be exercised in any case in which its exercise would result in  
15 less than a quorum of the board being able to hear or decide  
16 the matter. Any party may request that the board excuse a  
17 board member or a hearing officer for good cause by filing with  
18 the board a motion of excusal for cause at least twenty days  
19 prior to the date of the hearing. In any case in which a  
20 combination of peremptory excusals and excusals for good cause  
21 would result in less than a quorum of the board being able to  
22 hear or decide the matter, the peremptory excusals that would  
23 result in removing the member ~~[or members]~~ of the board  
24 necessary for a quorum shall not be effective.

25 D. In any case in which excusals for cause result

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1 in less than a quorum of the board being able to hear or decide  
2 the matter, the governor shall, upon request by the board,  
3 appoint as many temporary board members as are necessary for a  
4 quorum to hear or decide the matter. These temporary members  
5 shall have all of the qualifications required for permanent  
6 members of the board.

7 E. In any case in which excusals result in less  
8 than a quorum of the board being able to hear or decide the  
9 matter, the board, including any board members who have been  
10 excused, may designate a hearing officer to conduct the entire  
11 hearing.

12 F. Each board shall have power where a proceeding  
13 has been dismissed, either on the merits or otherwise, to  
14 relieve the ~~[applicant or]~~ licensee, applicant or unlicensed  
15 person from any possible odium that may attach by reason of the  
16 proceeding, by such public exoneration as it ~~[shall see]~~ sees  
17 fit to make, if requested by the ~~[applicant or]~~ licensee,  
18 applicant or unlicensed person to do so.

19 G. There shall be no liability on the part of and  
20 no action for damages against a person who provides information  
21 to a board in good faith and without malice in the reasonable  
22 belief that such information is accurate. A ~~[licensee]~~ party  
23 who directly or through an agent intimidates, threatens,  
24 injures or takes ~~[any]~~ adverse action against a person for  
25 providing information to a board shall be subject to

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1 disciplinary action."

2 SECTION 11. Section 61-1-8 NMSA 1978 (being Laws 1957,  
3 Chapter 247, Section 8, as amended) is amended to read:

4 "61-1-8. RIGHTS OF ~~[PERSON]~~ PARTY ENTITLED TO HEARING.--

5 A. A ~~[person]~~ party entitled to be heard ~~[under]~~  
6 pursuant to the provisions of the Uniform Licensing Act shall  
7 have the right to be represented by counsel ~~[or by a licensed~~  
8 ~~member of his own profession or occupation or both]~~; to present  
9 all relevant evidence by means of witnesses, books, papers,  
10 documents and other evidence; to examine all opposing witnesses  
11 who appear on ~~[any]~~ a matter relevant to the issues; and to  
12 have subpoenas and subpoenas duces tecum issued as of right  
13 prior to the commencement of the hearing to compel discovery  
14 and the attendance of witnesses and the production of relevant  
15 books, papers, documents and other evidence upon making written  
16 request ~~[therefor]~~ for them to the board or hearing officer.  
17 The issuance of such subpoenas after the commencement of the  
18 hearing rests in the discretion of the board or the hearing  
19 officer. All notices issued pursuant to Section 61-1-4 NMSA  
20 1978 shall contain a statement of these rights.

21 B. Upon written request to another party, any party  
22 is entitled to:

- 23 (1) obtain the names and addresses of  
24 witnesses who will or may be called by the other party to  
25 testify at the hearing; and

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1 (2) inspect and copy [~~any~~] documents or items  
2 [~~which~~] that the other party will or may introduce in evidence  
3 at the hearing.

4 C. The party to whom [~~such~~] a request is made shall  
5 comply with [~~it~~] the request within ten days after the  
6 [~~mailing~~] service or delivery of the request. No [~~such~~]  
7 request shall be made less than fifteen days before the  
8 hearing.

9 [~~C.—Any~~] D. A party may take depositions after  
10 service of notice in accordance with the Rules of Civil  
11 Procedure for the District Courts. Depositions may be used as  
12 in proceedings governed by those rules."

13 SECTION 12. Section 61-1-9 NMSA 1978 (being Laws 1957,  
14 Chapter 247, Section 9, as amended) is amended to read:

15 "61-1-9. POWERS OF BOARD OR HEARING OFFICER IN CONNECTION  
16 WITH HEARINGS.--

17 A. In connection with any hearing held under the  
18 Uniform Licensing Act, the board or hearing officer shall have  
19 power to have counsel to develop the case; to subpoena, for  
20 purposes of discovery and of the hearing, witnesses and  
21 relevant books, papers, documents and other evidence; to  
22 administer oaths or affirmations to witnesses called to  
23 testify; to take testimony; to examine witnesses; and to direct  
24 a continuance of any case. Boards or hearing officers may also  
25 hold conferences before or during the hearing for the

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1 settlement or simplification of the issues, but such settlement  
2 or simplification shall only be with the consent of the  
3 [~~applicant or licensee~~] party.

4 B. Geographical limits upon the subpoena power  
5 shall be the same as if the board or hearing officer were a  
6 district court sitting at the location at which the hearing or  
7 discovery proceeding is to take place. The method of service,  
8 including tendering of witness and mileage fees, shall be the  
9 same as that under the Rules of Civil Procedure for the  
10 District Courts, except that those rules requiring the tender  
11 of fees in advance shall not apply to the state.

12 C. The board or hearing officer may impose any  
13 appropriate evidentiary sanction against a party or other  
14 person who fails to provide discovery or to comply with a  
15 subpoena."

16 SECTION 13. Section 61-1-12 NMSA 1978 (being Laws 1957,  
17 Chapter 247, Section 12, as amended) is amended to read:

18 "61-1-12. RECORD.--In all hearings conducted [~~under~~]  
19 pursuant to the Uniform Licensing Act, a complete record shall  
20 be made of all evidence received during the course of the  
21 hearing. The record shall be preserved by any stenographic  
22 method in use in the district courts of this state or, in the  
23 discretion of the board, by [~~tape~~] digital recording  
24 technology. The board shall observe any standards pertaining  
25 to [~~tape~~] digital recordings established for the district

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1 courts of this state."

2 SECTION 14. Section 61-1-13 NMSA 1978 (being Laws 1957,  
3 Chapter 247, Section 13, as amended) is amended to read:

4 "61-1-13. DECISION.--

5 A. After a hearing has been completed, the members  
6 of the board shall proceed to consider the case and as soon as  
7 practicable shall render their decision, provided that the  
8 decision shall be rendered by a quorum of the board. In cases  
9 in which the hearing is conducted by a hearing officer, all  
10 members who were not present throughout the hearing shall  
11 familiarize themselves with the record, including the hearing  
12 officer's report, before participating in the decision. In  
13 cases in which the hearing is conducted by the board, all  
14 members who were not present throughout the hearing shall  
15 thoroughly familiarize themselves with the entire record,  
16 including all evidence taken at the hearing, before  
17 participating in the decision.

18 B. A final decision and order based on the hearing  
19 shall be made by a quorum of the board and signed and executed  
20 by the person designated by the board within ~~[sixty days after~~  
21 ~~the completion of the preparation of the record or submission~~  
22 ~~of a hearing officer's report, whichever is later. In any~~  
23 ~~case, the decision must be rendered and signed within]~~ ninety  
24 days after the hearing is closed by the board."

25 SECTION 15. Section 61-1-14 NMSA 1978 (being Laws 1957,

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1 Chapter 247, Section 14, as amended) is amended to read:

2 "61-1-14. SERVICE OF DECISION.--Within fifteen days after  
3 the decision is [~~rendered and~~] signed and executed, the board  
4 shall serve upon the [~~applicant or licensee~~] parties a copy of  
5 the written decision."

6 SECTION 16. Section 61-1-15 NMSA 1978 (being Laws 1957,  
7 Chapter 247, Section 15, as amended) is amended to read:

8 "61-1-15. PROCEDURE WHERE PERSON FAILS TO REQUEST OR  
9 APPEAR FOR HEARING.--If a person who has requested a hearing  
10 does not appear and no continuance has been granted, the board  
11 or hearing officer may hear the evidence of such witnesses as  
12 may have appeared, and the board may proceed to consider the  
13 matter and dispose of it on the basis of the weight of the  
14 evidence before it in the manner required by Section 61-1-13  
15 NMSA 1978. Where, because of accident, sickness or other  
16 extraordinary cause, a person fails to request a hearing or  
17 fails to appear for a hearing [~~which he~~] that the person has  
18 requested, the person may within a reasonable time apply to the  
19 board to reopen the proceeding, and the board upon finding such  
20 cause sufficient shall immediately fix a time and place for  
21 hearing and give the person notice as required by Sections  
22 61-1-4 and 61-1-5 NMSA 1978. At the time and place fixed, a  
23 hearing shall be held in the same manner as would have been  
24 employed if the person had appeared in response to the original  
25 notice of hearing."

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1           SECTION 17. Section 61-1-16 NMSA 1978 (being Laws 1957,  
2 Chapter 247, Section 16, as amended) is amended to read:

3           "61-1-16. CONTENTS OF DECISION.--The final decision and  
4 order of the board shall contain findings of fact made by the  
5 board, conclusions of law reached by the board, the order of  
6 the board based upon these findings of fact and conclusions of  
7 law and a statement informing the applicant or licensee of  
8 ~~[his]~~ the applicant's or licensee's right to judicial review  
9 and the time within which such review ~~[must]~~ shall be sought."

10          SECTION 18. Section 61-1-17 NMSA 1978 (being Laws 1957,  
11 Chapter 247, Section 17, as amended) is amended to read:

12          "61-1-17. PETITION FOR REVIEW.--A ~~[person]~~ party entitled  
13 to a hearing provided for in the Uniform Licensing Act, who is  
14 aggrieved by an adverse decision of a board issued after  
15 hearing, may obtain a review of the decision in the district  
16 court pursuant to the provisions of Section 39-3-1.1 NMSA  
17 1978."

18          SECTION 19. Section 61-1-19 NMSA 1978 (being Laws 1957,  
19 Chapter 247, Section 19, as amended) is amended to read:

20          "61-1-19. STAY.--At any time before or during the review  
21 proceeding pursuant to Section 61-1-17 NMSA 1978, the aggrieved  
22 ~~[person]~~ party may apply to the board or file a motion in  
23 accordance with the Rules of Civil Procedure for the District  
24 Courts in the reviewing court for an order staying the  
25 operation of the board decision pending the outcome of the

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1 review. The board or court may grant or deny the stay in its  
2 discretion. No order granting or denying a stay shall be  
3 reviewable."

4 SECTION 20. Section 61-1-21 NMSA 1978 (being Laws 1957,  
5 Chapter 247, Section 21, as amended) is amended to read:

6 "61-1-21. POWER OF BOARD TO REOPEN THE CASE.--

7 A. At any time after the hearing and prior to the  
8 filing of a petition for review, the ~~[person]~~ party aggrieved  
9 may request the board to reopen the case to receive additional  
10 evidence or for other cause.

11 B. The board need not reconvene and may be polled  
12 about whether to grant or refuse a request to reopen the case.  
13 The board shall grant or refuse the request in writing, and  
14 that decision and the request shall be made a part of the  
15 record. The decision to grant or refuse a request to reopen  
16 the case shall be made, signed by the person designated by the  
17 board within fifteen days after the board receives the request  
18 and served upon the ~~[applicant or licensee within fifteen days~~  
19 ~~after the board receives the request]~~ parties.

20 C. The granting or refusing of a request to reopen  
21 the case shall be within the board's discretion. The board may  
22 reopen the case on its own motion at any time before petition  
23 for review is filed; thereafter, it may do so only with the  
24 permission of the reviewing court. If the board reopens the  
25 case, it shall provide notice and a hearing to the applicant or

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1 licensee. The notice of the hearing shall be served upon the  
2 applicant or licensee within fifteen days after service of the  
3 decision to reopen the case. The hearing shall be held within  
4 forty-five days after service of the notice, and a decision  
5 shall be rendered, signed and served upon the applicant or  
6 licensee within thirty days after the hearing.

7 D. The board's decision to refuse a request to  
8 reopen the case shall not be reviewable except for an abuse of  
9 discretion."

10 SECTION 21. A new section of the Uniform Licensing Act,  
11 Section 61-1-25.1 NMSA 1978, is enacted to read:

12 "61-1-25.1. [NEW MATERIAL] SUMMARY SUSPENSION OF LICENSE  
13 OR PROBATION OF LICENSEE.--

14 A. A board may summarily suspend a license issued  
15 by the board or place a licensee on probation without a  
16 hearing, simultaneously with or at any time after the  
17 initiation of proceedings for a hearing provided pursuant to  
18 the Uniform Licensing Act, if the board finds that evidence in  
19 its possession indicates that the licensee:

20 (1) poses a clear and immediate danger to the  
21 public health and safety if the licensee continues to practice;

22 (2) has been adjudged mentally incompetent by  
23 a final order or adjudication by a court of competent  
24 jurisdiction; or

25 (3) has pled guilty to or been found guilty of

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1 any offense directly related to the practice of the respective  
2 license.

3 B. A licensee is not required to comply with a  
4 summary action until service has been made or the licensee has  
5 actual knowledge of the order, whichever occurs first.

6 C. When a board takes action to summarily suspend a  
7 license or place a licensee on probation pursuant to this  
8 section, it shall serve upon the licensee a written notice  
9 containing a statement:

10 (1) that the board has sufficient evidence to  
11 justify the board in issuing the summary suspension or  
12 probation;

13 (2) indicating the general nature of the  
14 evidence and allegations, including specific laws or rules that  
15 are alleged to have been violated;

16 (3) that unless the licensee within thirty  
17 days after service of the notice deposits in the mail a  
18 certified return receipt requested letter addressed to the  
19 board and containing a request for a hearing, the summary  
20 suspension or probation shall be final; and

21 (4) that the licensee is entitled to a hearing  
22 by the board pursuant to the Uniform Licensing Act within  
23 fifteen days from the date a request for hearing is received by  
24 the board from the licensee."

25 SECTION 22. Section 61-1-31.1 NMSA 1978 (being Laws 2016,  
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1 Chapter 19, Section 1, as amended) is amended to read:

2 "61-1-31.1. EXPEDITED LICENSURE--ISSUANCE.--

3 A. A board that issues an occupational or  
4 professional license [~~pursuant to this 2022 act~~] shall, as soon  
5 as practicable but no later than thirty days after an out-of-  
6 state licensee files [~~an~~] a complete application for an  
7 expedited license accompanied by any required fees:

8 (1) process the completed application; and

9 (2) issue a license to [~~a~~] the qualified  
10 applicant who submits satisfactory evidence that the applicant:

11 (a) holds a license that is current and  
12 in good standing issued by another licensing jurisdiction;

13 (b) has practiced and held an active  
14 license in the profession or occupation for which expedited  
15 licensure is sought for a period required by New Mexico law;  
16 and

17 (c) provides fingerprints and other  
18 information necessary for a state [~~and~~] or national criminal  
19 background check or both if required by law or rule of the  
20 board.

21 B. An expedited license is a one-year provisional  
22 license that confers the same rights, privileges and  
23 responsibilities as regular licenses issued by a board;  
24 provided that a board may allow for the initial term of an  
25 expedited license to be greater than one year by board rule or

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1 may extend an expedited license upon a showing of extenuating  
2 circumstances.

3 C. Before the end of the expedited license [~~period~~]  
4 term and upon application, a board shall issue a regular  
5 license through its license renewal process. If a board  
6 requires a state or national examination for initial licensure  
7 that was not required when the out-of-state applicant was  
8 licensed in the other licensing jurisdiction, the board shall  
9 issue the expedited license and may require the license holder  
10 to pass the required examination prior to renewing the license.

11 D. A board by rule shall determine those states and  
12 territories of the United States and the District of Columbia  
13 from which the board will not accept an applicant for expedited  
14 licensure and [~~those~~] determine any foreign countries from  
15 which the board will accept an applicant for expedited  
16 licensure. The list of those licensing jurisdictions shall be  
17 posted on the board's website. The list of disapproved  
18 licensing jurisdictions shall include the specific reasons for  
19 disapproval. The lists shall be reviewed by the board annually  
20 to determine if amendments to the rule are warranted."

21 SECTION 23. Section 61-1-31.2 NMSA 1978 (being Laws 2022,  
22 Chapter 39, Section 8) is amended to read:

23 "61-1-31.2. TEMPORARY OR PROVISIONAL LICENSE--EVIDENCE OF  
24 INSURANCE.--A board may issue a temporary or other provisional  
25 license, including an expedited license, to a person licensed

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1 in another licensing jurisdiction, which [~~license is~~] may be  
2 limited as to [~~a~~] time, practice or other [~~requirement~~]  
3 condition of a regular [~~licensure~~] license. If a board  
4 requires [~~regular~~] licensees to carry professional or  
5 occupational liability or other insurance, the board shall  
6 require the applicant for a temporary or provisional license to  
7 show evidence of having required insurance that will cover the  
8 person in New Mexico during the term of the temporary or  
9 provisional license. Each board shall provide information on  
10 the board's website that describes the insurance requirements  
11 for practice in New Mexico, if applicable."

12 SECTION 24. Section 61-1-34 NMSA 1978 (being Laws 2013,  
13 Chapter 33, Section 1, as amended) is amended to read:

14 "61-1-34. EXPEDITED LICENSURE--MILITARY SERVICE MEMBERS,  
15 INCLUDING SPOUSES AND DEPENDENTS, AND VETERANS--WAIVER OF  
16 FEES.--

17 A. A board that issues an occupational or  
18 professional license pursuant to Chapter 61 NMSA 1978 shall, as  
19 soon as practicable but no later than thirty days after a  
20 military service member or a veteran files [~~an~~] a complete  
21 application, and provides a background check if required:

22 (1) process the application; and

23 (2) issue a license prima facie to a qualified  
24 applicant who submits satisfactory evidence that the applicant  
25 holds a license that is current and in good standing, issued by

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1 another jurisdiction, including a branch of the armed forces of  
2 the United States.

3 B. A license issued pursuant to this section is a  
4 provisional license but shall confer the same rights,  
5 privileges and responsibilities as a regular license. If the  
6 military service member or veteran was licensed in a licensing  
7 jurisdiction that did not require examination, a board may  
8 require the military service member or veteran to take a board-  
9 required examination [~~before making application for renewal~~]  
10 prior to renewing the license.

11 C. A military service member or a veteran who is  
12 issued a license pursuant to this section shall not be charged  
13 [~~a~~] an initial or renewal licensing fee for the first three  
14 years of licensure.

15 D. Each board that issues a license to practice a  
16 trade or profession shall, upon the conclusion of the state  
17 fiscal year, prepare a report on the number and type of  
18 licenses that were issued during the fiscal year under this  
19 section. The report shall be provided to the director of the  
20 office of military base planning and support not later than  
21 ninety days after the end of the fiscal year.

22 E. As used in this section:

23 (1) "licensing fee" means a fee charged at the  
24 time an initial or renewal application for a professional or  
25 occupational license is submitted to the state agency, board or

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1 commission and any fee charged for the processing of the  
2 application for such license; "licensing fee" does not include  
3 a fee for an annual inspection or examination of a licensee, a  
4 late fee or a fee charged for copies of documents, replacement  
5 licenses or other expenses related to a professional or  
6 occupational license;

7 (2) "military service member" means a person  
8 who is:

9 (a) serving in the armed forces of the  
10 United States as an active duty member, or in an active reserve  
11 component of the armed forces of the United States, including  
12 the national guard;

13 (b) the spouse of a person who is  
14 serving in the armed forces of the United States or in an  
15 active reserve component of the armed forces of the United  
16 States, including the national guard, or a surviving spouse of  
17 a member who at the time of the member's death was serving on  
18 active duty; or

19 (c) the child of a military service  
20 member if the child is also a dependent of that person for  
21 federal income tax purposes; and

22 (3) "veteran" means a person who has received  
23 an honorable discharge or separation from military service."

24 SECTION 25. Section 61-1-36 NMSA 1978 (being Laws 2021  
25 (1st S.S.), Chapter 3, Section 8) is amended to read:

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1 "61-1-36. CRIMINAL CONVICTIONS--EXCLUSION FROM  
2 LICENSURE--DISCLOSURE REQUIREMENT.--

3 A. A board shall not exclude from licensure a  
4 person who is otherwise qualified on the sole basis that the  
5 person has been previously arrested for or convicted of a  
6 crime, unless the person has a disqualifying criminal  
7 conviction.

8 B. By December 31, 2021, each board shall  
9 promulgate and post on the board's website rules relating to  
10 licensing requirements to list the specific criminal  
11 convictions that could disqualify an applicant from receiving a  
12 license on the basis of a previous felony conviction. Rules  
13 relating to licensing requirements promulgated by a board shall  
14 not use the terms "moral turpitude" or "good character". A  
15 board shall only list potentially disqualifying criminal  
16 convictions.

17 C. In an administrative hearing or agency appeal, a  
18 board shall carry the burden of proof on the question of  
19 whether the exclusion from occupational or professional  
20 licensure is based upon a potentially disqualifying criminal  
21 conviction.

22 D. No later than October 31 of each year, while  
23 ensuring the confidentiality of individual applicants, a board  
24 shall make available to the public an annual report for the  
25 prior fiscal year containing the following information:

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1 (1) the number of applicants for licensure  
2 and, of that number, the number granted a license;

3 (2) the number of applicants for licensure or  
4 license renewal with a potential disqualifying criminal  
5 conviction who received notice of potential disqualification;

6 (3) the number of applicants for licensure or  
7 license renewal with a potential disqualifying criminal  
8 conviction who provided a written justification with evidence  
9 of mitigation or rehabilitation; and

10 (4) the number of applicants for licensure or  
11 license renewal with a potential disqualifying criminal  
12 conviction who were granted a license, denied a license for any  
13 reason or denied a license because of the conviction.

14 E. As used in this section, "disqualifying criminal  
15 conviction" means a conviction for a crime that is job-related  
16 for the position in question and consistent with business  
17 necessity."

18 SECTION 26. Section 61-1-37 NMSA 1978 (being Laws 2022,  
19 Chapter 39, Section 2) is amended to read:

20 "61-1-37. RESIDENCY IN NEW MEXICO NOT A REQUIREMENT FOR  
21 LICENSURE.--A person who otherwise meets the requirements for a  
22 professional or occupational license shall not be denied  
23 licensure or [~~relicensure~~] license renewal because the person  
24 does not live in New Mexico."

25 SECTION 27. A new section of the Uniform Licensing Act is  
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1 enacted to read:

2 "[NEW MATERIAL] NEW MEXICO PROVISIONS APPLICABLE TO  
3 PROFESSIONAL AND OCCUPATIONAL LICENSURE COMPACTS.--

4 A. With regard to any interstate compact related to  
5 interstate professional or occupational licensure to which New  
6 Mexico is a party, the state shall enforce the provisions  
7 specified in Subsection B of this section regardless of whether  
8 the compact provisions are silent or contrary to these  
9 provisions.

10 B. The following provisions shall apply in New  
11 Mexico:

12 (1) a person who is practicing a profession or  
13 occupation on a compact-related license shall register with the  
14 appropriate licensing board prior to practicing in the state;

15 (2) a person shall not practice for more than  
16 two years in New Mexico on a compact-related license, and the  
17 person may apply for an expedited license if the person wishes  
18 to continue to practice in this state;

19 (3) a compact shall not alter or affect the  
20 practice or scope of practice of a profession or occupation in  
21 this state;

22 (4) rules adopted by a compact governing body  
23 do not have the force of law in New Mexico unless they are  
24 adopted and promulgated by the appropriate licensing board in  
25 accordance with the State Rules Act;

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1 (5) a New Mexico compact administrator shall  
2 keep all minutes, proposed and adopted rules and financial  
3 statements of the compact governing body, which records are  
4 public records and subject to the Inspection of Public Records  
5 Act;

6 (6) a New Mexico compact administrator shall  
7 publish on the regulation and licensing department compacts web  
8 page the notice of all compact meetings and their agendas  
9 consistent with the Open Meetings Act, and failure to post the  
10 information forfeits reimbursement for attendance at the  
11 compact meeting;

12 (7) any dispute with a compact governing body  
13 shall be adjudicated in federal or state court in New Mexico;  
14 and

15 (8) no amendments to a compact to which New  
16 Mexico is a party shall be applicable in New Mexico unless  
17 enacted by the legislature.

18 C. The regulation and licensing department shall  
19 host a compacts web page on which information on all  
20 professional and occupational compacts to which New Mexico is a  
21 party may be found.

22 D. The New Mexico compact administrator for each  
23 compact shall publish a report no later than February 1 of each  
24 year for the prior calendar year, including:

25 (1) how many people practiced a profession or

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1 occupation on a compact-related license in New Mexico;

2 (2) the number of actions taken against a  
3 licensee practicing under a compact-related license in any  
4 member state or by the compact governing body; and

5 (3) any new rules adopted by the compact  
6 governing body.

7 E. The report shall be provided to the appropriate  
8 licensing board and posted on the compacts website, and an  
9 electronic copy shall be provided to the legislative library."

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